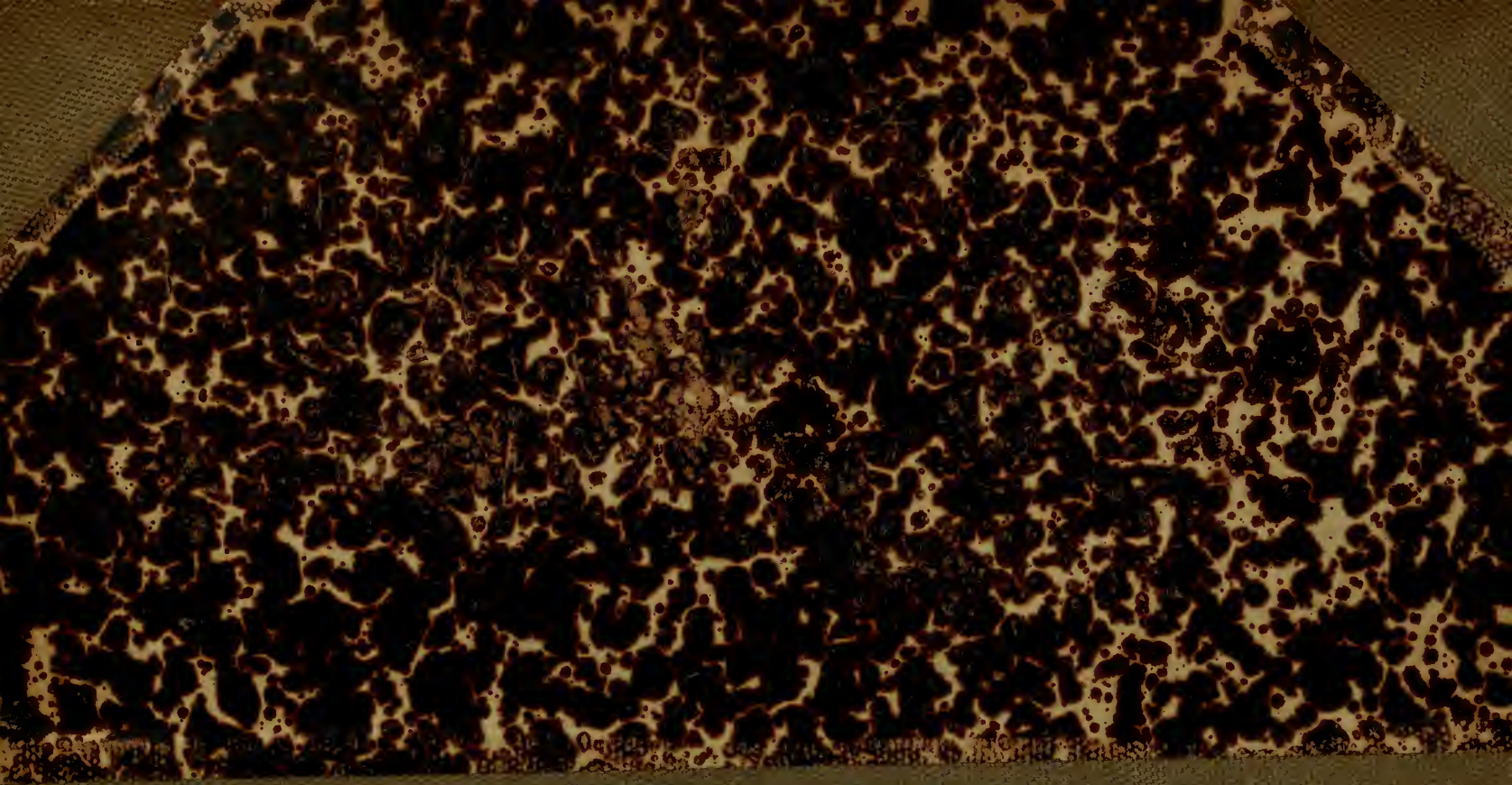

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THE MEDICO-LEGAL JOURNAL.

A Quarterly devoted to the Science of Medical Jurisprudence,

PUBLISHED UNDER THE AUSPICES OF THE MEDICO-LEGAL SOCIETY OF THE CITY OF NEW YORK.

This Journal will publish the leading papers of the Medico-Legal Society, and a resume of its transactions. Its columns will at the same time be open to contributions from all sources and from all parts of the world, on appropriate subjects and questions. It will endeavor to chronicle interesting facts and scientific deductions within its domain, and keep a record of current events, especially in the trial of cases in the courts which involve Medico-Legal questions

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Portraits of the Chief Justices of the Supreme Courts of some of the American States, and British Colonies invited by the Attorney-Right Hon. to meet the Supreme Court of Canada and Hon. Sir [illegible] when sitting Judicially in the Admiralty Court as Colonists

ELECTRICITY IN ITS MEDICO-LEGAL RELATIONS.

By Clark Bell, Esq.,
President of the Medico-Legal Society of New York ; Honorary Member of the French, Belgian and other Societies.

The advance in scientific research and discovery in the last few years, in the application of electricity to the wants and needs of mankind, has been something prodigious.

One can hardly keep pace with the advancing strides of electrical invention and discovery.

The electric light, is now a public necessity, and is in almost universal use in the cities and large towns.

Electricity as a motive power, and force, in mechanics and engineering, is coming into a prominence and usefulness, that is beyond the comprehension of few, save those who have investigated the subject.

Perhaps no form of the use of that energy, known as electricity, at the present hour excites greater public interest, than the problem of electric lighting, and its relation to the public good, and especially to the public safety.

The practical use of this agent, for lighting, as well as for the telegraph and telephone, must be by wires through which the current is conducted.

The electric telegraph, which created the pioneer road for the passage of the current, was along wires suspended in mid air.

That path and lead, was followed usually as the advance of discovery, and the application of practical inventions, brought the agent into new and untried fields but recently along this pathway.

In America and Great Britain, countries that occupy the lead in this development, the use of overhead wires, came almost naturally into universal use, and without regard to the power or potency of the current employed.

The advancing wave of this practical use brought into requisition, greater force and greater potency, and the experiments developing the various kinds of currents, led to new problems and complications, which found their way to the public eye and ear soonest, in the systems of electric lighting as applied and used in the great cities.

Municipal authority, starts with the legal proposition, that the power of regulating the use of any agent, as steam, electricity or any other energy used, so far as it relates to the public safety, is, and of needs must be, the subject of municipal regulation, or legislative enactment.

The earlier experiments, and indeed the practical use of this wonderful agent, while known to be dangerous, were singularly and almost marvellously free from disaster in this country, and so far as we have been able to learn throughout the civilized nations of the world, who employed it.

The accidents, fatal or otherwise, attending, or resulting from its use, were less, than from any other energy used by mankind, in the arts, science, or as a force, not merely in actual number, but in ratio to the total number of those directly engaged in the use.

The number of deaths or accidents resulting from fire, steam, gas or other forces, exceeded this agent so greatly that they became absolutely insignificant in fact, as well as in the popular estimation, both in America and in Great Britain.

A different impression obtained in France, and indeed in all Continental countries, save, perhaps, Italy.

In Paris and Berlin the authorities compelled all wires used by the electric lighting companies, to be placed under ground. This was not due to considerations of public safety, so far as danger to life was concerned, in either city. The German regulations do not seem to contemplate personal danger; as low 100 volts potential are about the powers used, and danger of fire, and precaution of insulation are regarded, more particularly where the continuous current is generally used.

This is also true of Belgium, but only partially true of Italy, where the low potential powers, are usually in use for lighting, but an extraordinary exception is contemplated for the use of enormous power at the Tivoli falls, outside Rome.

This plan is said by Sir William Thompson to be, to use 2,500 horse power at the falls, this to be transmitted by alternating current, at 5,000 volts, by overhead wires to the Imperial City, a distance of 37 kilometres. Then to reduce it by a transformer to 1,000 volt currents, and then distribute underground by numerous transformers, in different parts of the city, and to consumers in 100 volt currents for general public use.

The tendency of legislation has been to put the wires underground, on the theory, that the question of danger from high pressure overhead wires might be thus either avoided or reduced to a minimum.

The British Electric Lighting Act of 1888, seems to have been based upon that presumption.

The public sentiment in New York, at the present moment, is strongly in the same direction, and it is intensified by the darkness which came upon the city of New York, since the action of the municipal authorities in

demolishing the overhead wires, under the guidance of the inspector of the Board of Electrical Control, of the city, to the extent, as we are advised, of at least one-fourth of all the mileage, of the electric light wires of the city, and with the result of suspending the service of at least nine-tenths of all the arc lights of the metropolis.

This was a great public calamity, for New York, and must have been attended with enormous loss, to the corporations who had supplied it, as it was certainly an enormous inconvenience to the general public.

The agitation of the public mind, is so great, that we think it wise now to look at this question, with conservative regard for the truth, and with more of calm reflection, and without that excitement, that resulted in such a wholesale destruction, of the plant, of the various companies who supplied the city.

Let us inquire as to what currents are now used, look at the relation of each to the public safety ; and examine what precautions are necessary, and how they can best be taken.

Mr. Thomas A. Edison, a very high electrical authority has classified these currents as follows :—

First—" The low-tension continuous current with a pressure not exceeding 200 volts used for incandescent lighting.

Second—The high-tension continuous current with a pressure of 2,000 volts or over.

Third—The high-tension semi-continuous or pulsatory current with a pressure of 2,000 volts and over.

Fourth—The alternating current with a pressure of from 1,000 to 3,000 volts and over."

(Electrical Engineer Jan. 1890 p. 16.)

Sir William Thompson is an authority for the statement

" That 100 volts in the house is perfectly safe to the user, whether the current be alternating or continuous, as is proved, by large and varied experience in England."

(North American Review Feb. 1890 p. 191.)

This statement is quoted approvingly by GEORGE WESTINGHOUSE, JR., a man of large and varied experience and practical knowledge, who has recently taken high rank as a polemical writer upon these questions.

Besides Mr. Westinghouse upon the same subject states in the same paper:

"It is conceded by all familliar with these matters, that contact with a conductor charged with an electrical pressure of one hundred volts or less, is not dangerous to persons, whether the current be direct or alternating."

What is true of England, of Belgium, of Germany, and the Continental Cities I think we may say is quite true of the City of New York.

Perhaps the clearest definition of the "alternating current," or rather the characteristics of that current, and the "continuous current," as contra distinguished from each other is that given by Mr. Geo. Westinghouse, Jr., in the March number of the North American Review, in his able and forcible reply to Sir Wm. Thompson's article on "*Electric Light and Public Safety.*"

Mr. Westinghouse says:—

"It is now quite generally understood that in the generationof electricity for electric lighting and similar purposes, a coil of wire with united ends is caused to approach a magnet, by which operation a pulsation of electricity flowing in a definite direction is produced in the wire; and when the coil is withdrawn from the magnet, another similar pulsation is produced, but this time in the opposite direction. The repetition of this operation produces a succession of pulsations, alternating in direction which is termed an alternating current; and in what is known as the alternating system of distribution, the natural currents are used in the distributing mains directly as they are produced by the generator.

The production of what is known as a continuous current, involves the changing of every alternate pulsation by a complicated mechanical contrivance called the commutator, which through two sets of brushes, one set taking all of the positive currents, and the other all of the negative, causes the successive pulsations all to flow in the same direction, constituting what is technically termed a direct current, and usually spoken of as a continuous current. This current is similar in character to that generated by the well-known chemical batteries."

One characteristic of an "alternating current," is as described by Mr. Westinghouse :

"That an alternating current, when made to traverse a coil of wire is capable of inducing or creating, in an independent coil of wire, in the neighborhood of the first coil, a similar alternating current of equal energy, but capable of having its pressure or its quantity, modified to any required extent ; a result which the continuous current is utterly incapable of producing."

It is claimed also by Mr. WESTINGHOUSE, that absolute safety, is secured to the consumer, both as to personal injury and as against fire, or other accidents by using even very high voltage, in the street mains, well secured, and protected; wholly disconnected with the house wire ; supplied by converters or transfomers located in or near each building, composed of two separately wound and insulated coils, one of thin wire connected with the street mains, and the other of thick wire connected to the wires of the building. The practical working of this arrangement is that the voltage which may be 2,000 in the thin wire, induces in the neighboring coil of thick wire, an equivalent amount of electrical energy, but so modified as to be only 50 volts in the thick coil, the volume of the electricity being as many times increased as the voltage is diminished.

It would seem that suitable legislative or municipal regulations could be made, which would prohibit any connection between the consumer and the high pressure mains, that would reduce the danger of personal injury to the minimum so as to be substantially safe.

Electrical engineers and experts should be called upon to pass upon the questions.

1. What precautions could be taken to reduce the danger of injury to persons from the use of high pressure main wires, whether submerged in great cities or suspended in air outside city limit? and

2. What precaution could be adopted in the distribution of the lights, by transformers, so as to make the consumer absolutely safe as to personal injury?

3. What quantity can be carried over each class of conductors, and what regulations and limitations as to quantity should be placed on each class and kind of conductors?

The use of the alternating currents of high tension, by means of transformers, which convert or change the current into low tension currents, and the absolute disconnection of the two systems of conductors, are not only generally recognized by electricians, but are in practical working operation in the chief cities of the world.

The danger to public safety from the use of either current may be then stated to be, in addition to personal safety, that of causing or occasioning fires, and of explosions, and it seems quite clear from the best authority, that placing the main high pressure wires underground, does not guard against either of these dangers.

Mr. Edison has cited an incident that occurred near the corner of Wall and William Streets, by the crossing of wires at a pressure of only 110 volts, which caused energy "sufficient to melt the iron tubing, and reduced the paving stones to a molten mass," and it is apparent that burying the wires, without important modifications of the present regulations, would not be a certain safeguard against danger to public safety in this direction.

Mr. WESTINGHOUSE correctly states the source of danger as to fires, when he says:

"Electrical fires are the results which are due directly to the quantity, or volume, and not to the tension or pressure of the current." "The welding together of massive bars of iron, is quickly and perfectly accomplished with an electrical pressure of only one volt, although the volume of current is of course enormous."

Again while no injury to person would result from an electrical pressure of 100 volts or less, a fire can be started between two wires with 100 volts of direct current, by the moisture from water, which a pressure of 50 volts of the alternating current could not do.

(Mr. Westinghouse, March, 1890, North American Review, 327.)

Assuming the correctness of his proposition, this fact would teach us how to avoid fires, by disconnecting the buildings from the high pressure mains, and substituting transformers for supply to 50 volts, thus making fires from this cause practically impossible.

It would be needless and perhaps unwise in the present agitated state of public opinion, intensified by the few fatal cases (but in several very terrible to contemplate, and which greatly inflamed the public sense), to attempt to change popular dislike and distrust of the overhead wires, but it is nevertheless quite true, that unless provisions are made and regulations modified, to suit the public exigency, the total submerging of the wires, under the present regulations, may result in New York in greater public harm, than any yet sustained, as the ratio of loss of life was so very small in its ratio to death from other causes.

The characteristics of the different currents furnish an interesting study, when considered as to their respective potencies, in regard to personal safety, when passed through the human body.

The most recent contribution to this branch of the subject, is that presented by Dr. ARTHUR HARRIS and Mr. H. NEWMAN LAWRENCE, in a recent paper submitted to the London Institute of Electrical Engineers, upon the question of the relative potencies of the alternating and continuous currents for mischief to human life.

The general summing up, of their admirable group of experiments, indicates that the resistance of the human body was something greater, with the continuous than with the alternating current. (London Lancet, May 3, '90.)

The testimony given by electrical experts before the New York Legislative Committee of Investigation, is full of interest upon this branch of inquiry.

DEATH PENALTY.

It may be regarded as an indisputable proposition, that where it is desired to produce fatal results, as in the case of executions under the law, the alternating current, is by far the most reliable and certain in its fatal effects.

Mr. Edison, that high electrical authority, in answer to the writer's inquiry as to whether there was room for reasonable doubt, as to the certainty of death, by the instrument, which has been selected by the public authorities, to carry into effect the sentence of the tribunals, of those condemned to death, in the State of New York, stated that death would be instantaneous and absolutely certain, beyond any peradventure, with the present instrument.

The question of electrical executions as a penalty or punishment for crime, is outside the previous considerations.

If electrical scientific knowledge is desired, to consider what method is the most certainly fatal, to human life by a direct application for that purpose, we should hesitate to believe that any competent expert would fail, if he made a serious effort, to accomplish that result by the alternating current.

The application for legislative interference naturally

waited, until the Court of appeals, passed upon the constitutionality of the law itself.

It is said that revolutions never go backward, and the signs of the times, are not favorable to going back to the hangman and the scaffold.

The test of this method of executing criminals will be considered by our people, and its merits and demerits canvassed. I should sooner look, (if any change came in the present law,) for the abolition of the death penalty in this State, rather than a restoration of the scaffold and the rope.

Indeed, this is the form, which opposition to existing laws took, before the Legislature, in the bill to abolish the death penalty for crime; and that side of the discussion was presented with great force, and the measure passed the lower house of the New York Legislature.

There has been a strong minority in this State opposed to the death penalty for crime. This minority will now be reinforced, by those who have opposed the new law, and the issue came before our people in the Assembly bill.

The leading judges and jurists, oppose the abolition of the death penalty, and in the debate before the Medico-Legal Society on the 14th instant, no speaker favored the abolition, though there are members of the body who do.

The Medico-Legal aspects of this wonderful energy, are at the present moment, attracting the attention of courts, jurists and legislators, and this is my apology for bringing these considerations to the public notice.

OSMOSIS OF STRYCHNIA THROUGH ORGANIC TISSUES.

By George B. Miller, M. D., Philadelphia.

Dunglison defines osmosis as follows: "The force by which fluids are impelled through moist membrane and other porous septa, in endosmotic and exosmotic actions."

From a glance at the foregoing complete definition of the term *osmose* and its application to the poison, strychnia, the design and import of the present paper will be no doubt anticipated by, and present to, the toxicologist, results not uninteresting. Hence it is hardly deemed necessary to set forth anything more than a mere outline of the subject, and then state experiments in detail.

Suffice it to say that in order to fortify a position taken in a recent article, in which it was clearly shown that *strychnia* introduced into an animal, post-mortem, could be recovered by analysis from special organs, and placed beyond all peradventure by tetanizing frogs with the recovered lethal agent. The results of the present experiments are so closely identified with those obtained when investigating the post-mortem imbibition of this poison as to be inseparable—the mode of procedure, however, being different. They both gave evidence of the highly diffusive property of strychnia.

POST-MORTEM DETAILS.

From a rabbit dead twelve hours the urinary bladder, jejunum and the rectum were removed; also from a rab-

bit dead 10 hours the heart [*in situ*], lungs and stomach were taken.

Heart and Lungs.—The great blood-vessels leading to and from the heart were securely tied, thus preventing any leakage except by osmotic force. Care was taken that the lung structure should not be injured in the process of removal.

Stomach.—Having been injected, this organ was suspended by means of the duodenum and œsophagus, which had been allowed to remain, their apertures, however, being closed.

Jejunum.—12 inches were selected, and one end closed. Through the other end the solution of strychnia was injected, and the bowel, after being doubled upon itself, was suspended in water, taking care, however, to keep the ends above the level of the water.

Urinary Bladder.—Both ureters were tied and the solution injected through the neck of the bladder, which was also tied, and the sac then suspended in the water.

Rectum.—Six inches of this portion of the intestinal tract were treated in the same manner as the jejunum.

In all the following experiments it was decided to use a *normal* solution, of the strength of 2 grams of sulphate of strychnia, to 150 c.c. of distilled water, slightly acidulated with sulphuric acid.

The method of procedure in all the following experiments was as follows: The organ was removed and carefully filled with a known quantity of the above normal solution; all apertures were then closed and the organ made to act in the capacity of a diaphragm by suspending it in a beaker containing a known quantity of distilled water. After different periods of time, this water was tested by placing in it a frog, which, in every instance, developed tetanic convulsions.

EXPERIMENT I.

Jejunum.—20 c.c. of the above normal solution were injected, and the bowel then suspended in 50 c.c. of distilled water.

Physiological test: 20 minutes after injection of the bowel, a frog weighing 7 grams was placed in the beeker. In 8 minutes, tetanic convulsions commenced, followed by death in 132.

EXPERIMENT II.

Rectum.—10 c.c. of normal solution were injected, and the rectum then suspended in 50 c.c. of distilled water.

Physiological test: 30 minutes after injection, a frog weighing 10 grams was placed in the water. Marked tetanic convulsions commenced in 7 minutes, death ensuing in 173.

EXPERIMENT III.

Urinary Bladder.—10 c.c. of normal solution injected and the sac suspended in 50 c.c. of water.

Physiological test: 30 minutes after injection, a frog weighing 7 grams was placed into the water containing the bladder. Well-developed tetanic convulsions commenced in 8 minutes, followed by death in 137.

EXPERIMENT IV.

Heart and Lungs.—25 c.c. of normal solution were injected into the lungs [heart *in situ*] through the trachea, and the organs then suspended in 100 c.c. of water.

Physiological test: 10 minutes after injection, a frog weighing 10 grams was placed in the vessel holding these organs. Tetanic seizures appeared in ten minutes, causing death in 125.

EXPERIMENT V.

Stomach.—20 c.c. of normal solution were introduced into this receptacle, which was then suspended in 100 c.c. of water.

The foregoing results may be placed in tabular form as follows :

Experiment.	I.	II.	III.	IV.	V.	VI.
Tissue experimented upon.....	Rectum.	Lungs [Heart *in situ.*]	Stomach.	Jejunum.	Rectum.	Urinary Bladder
Amount of normal sol. used....	15 c.c.	25 c.c.	20 c.c.	20 c.c.	10 c.c.	10 c.c.
Amount of distilled water in which organ was suspended.	50 c.c.	100 c.c.	100 c.c.	50 c.c.	50 c.c.	50 c.c.
Time elapsing between injection of organ and immersion of the frog.....	Frog and organ placed in the beaker at the same time.	10 minutes.	5 minutes.	20 minutes.	30 minutes.	35 minutes.
Interval between the immersion of the frog and the development of tetanic convulsions..... ...	10 minutes.	10 minutes.	15 minutes.	8 minutes.	7 minutes.	8 minutes.
Interval between the first appearance of convulsions in the frog and its death.....	125 minutes.	125 minutes.	265 minutes.	132 minutes.	173 minutes.	137 minutes.
Interval between the injection of the organ and the first appearance of convulsions in the frog..... ...	10 minutes.	20 minutes.	20 minutes.	28 minutes.	37 minutes.	43 minutes.
Taste applied to the solution suspected.....	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.	Bitter.
Otto's color test.....	Play of Colors.	Characteristic play of colors.	Usual response.	Play of colors.	Play of colors.	Play of colors.

Physiological test: 5 minutes after injection, a frog weighing 11 grams was placed in the vessel containing the stomach. Tetanic stiffening commenced in 15 minutes, followed by death in 265.

EXPERIMENT VI.

Rectum.—15 c.c. of normal solution were injected, and the bowel suspended in 50 c.c. of cold water.

Physiological test: [Frog and rectum were both placed in the water at the same time.] In 5 minutes tetanic convulsions were exhibited by the frog, followed by death in 90.

Thus, from a careful study of this interesting subject, we feel prepared to make the following deductions:

1. That if we accept the convulsive seizures manifested by the frog as an indication of the rapidity of the osmotic current, the *rectum* merits our consideration, as being a first choice for a membranous diaphragm offering the least resistance.

2. That strychnia seeks its way out of organs into adjacent tissues by a true osmose, and into remote tissues chiefly by continuity of structure (blood-vessels, lymphatics, nerves, etc.,) and that this process, in select animal structures displaced from a body, takes place possibly in a more rapid manner.

3. That these results must necessarily fortify former experiments, in which strychnia was introduced into animals post-mortem, and subsequently recovered from various important organs and secretions.

4. That it is quite probable that other vegetable poisons may, in like manner, possess this property of osmose.

HEREDITY-CRIMINALITY, ETC., VS. EDUCATION.

By Sophie McClelland, of New York.

Great stress has recently been laid, on the influence of education, moral environment, and its result, in the creation of character and habit. It has been shown how climate, the nature of food and drink, shape the human organism, by their incessant action; how silent sensations, which do not come into consciousness, thronging the nerves of sense, eventually form, the habitual mode, which we call personal character.

Some have attributed so much, to the influence of physical environment, as to make it simply a creator. It is highly important, that we ascribe to education, only what belongs to it.

Whether certain psychic qualities, result from spontaneous variation, or from hereditary transmission, is a question of no importance; we have only to show, that they exist before education, which at times transforms them. The opponents of heredity err, when they attempt to explain, by the external cause of education, what results from the internal cause of character. Either children, do not resemble their parents, and there is no law of heredity, or they do resemble them morally, and there is no need to look, for any other cause than education.

It is perfectly natural, that a painter or musician, should teach his art to his son; that a thief, should train his children to theft; that a child born amid debauchery, should bear the impress of his surroundings. Faculties

which we find in all individuals, have different degrees of aptitude, in various individuals, independent of education. It is needless to cite facts from history, which tells only of men of eminence and distinction; we need only, to appeal to every-day experience. It is not rare, to find skeptical children in orthodox families, or religous in skeptical families; debauched men among good examples; or ambitious men in a family of a retiring, peaceable disposition. We are speaking only of ordinary people, whose life is passed always on a restricted stage. Compare the savage, with the accomplished gentleman. The fact is, six thousand years, stand between the two. Many of the habits, which we contract through education, have cost the race, centuries of effort. Millions of men, have been needed to invent, and bring to perfection, those methods, to develop the body, cultivate the mind and fashion the manners, until these acts, have become a habit, and almost mechanical life, in us. It is not rare, however, in our own times, to find individuals, in families of high position, whose education is of a very thin covering—that the slightest friction scales off—and then the true, the brute, appears, with its instincts and unbridled appetites, bursts all bonds which civilization has imposed upon it, and finds itself, at home in barbarism. As Carlyle has said, "Civilization is only a covering underneath which the savage nature of man continually burns with an infernal fire." We must ever bear in mind these facts, and be careful not to believe, that education explains everything. We would not, however, detract in the least from its importance. Education, after centuries of effort, has made us what we are. But man comes into the world, not the impressionable being, subject to environment and training, that some would incline us to believe ; but he is

possessed of a certain nervous organization, which predisposes him to feel, to think, and to act, after a manner, which is peculiar and personal to himself; we may even affirm, that the experience of countless generations slumbers in him.

The present skill of his mechanism, is the result of innumerable modifications, slowly accumulated, that were there no crossings, no variations, no psychical combinations or transformations, the descendants would necessarily be inclined to feel, and to think, as did their ancestors. Man can not, any more than any other animal, live without contracting habits, without undergoing the influence of circumstances, or of an excess or deficiency, in the exercise of each organ, inducing modifications of all kinds, which remain fixed in him. Are these transmitted? Are they destined to perish with the individual, or do they become in his descendants a new, an acquired character? The brain, like every other organ, is developed by exercise; if this increase, whether of size or of energy, is transmissable, progress of the mental faculties will be the result, and will be determined not only outwardly, but inwardly and organically. Every man has two fathers—organization and education—and what the second can do, depends on what the first has done.

The living being, is subject to the action, of its environment, and modified by it. Education may develop his intellect, his character, his imagination, his sentiments. These are transmitted. The evolution of the psychical faculties is a law of the intellectual world, and the gain made by each generation is to the advantage of those which follow. When man has discovered a law which governs a group of phenomena, if these phenomena are within his reach, or come under his control, he can

modify them, because he holds in his hands the mainspring that moves and governs them. He knows that these laws exist and act, notwithstanding many exceptions which mask their actions. Can he turn them to account? Can he employ them for the perfecting of his species? Can we, by means of selection and heredity, increase in a race the sum of its intelligence and morality? Heredity is an effect. It depends on generation, and generation depends on the agents. It is, therefore, at the root of the matter. As we view it, education is unequal to this task. There remains in some natures a substratum of savagery, which may be overlaid by civilization, but never done away. Hereditary transmission alone could modify them.

Montaigne expresses his astonishment—"Is it not marvelous," says he, "that this drop of seed from which we are produced should bear the impression not only of the bodily form, but even of the thoughts and inclinations of our fathers? Where does this drop of water keep this infinite number of forms? And how does it bear these likenesses through a progress so hap-hazard and so irregular that the great grandson shall resemble the great grandfather; the nephew the uncle?"

It seems to me, at this age, hereditary diathesis is too well recognized as a fact, by even the most ordinary observer, to be disputed upon physiological grounds. Thought, feeling, and moral tendencies are so well attested by even the strongest psychical schools of philosophy to need any argument of support.

Heredity extends over all the elements and functions of the organism, to its external and internal structure, to its maladies, its special characteristics and its acquired modifications. The influence of our actions never can be limited to ourselves, nor even to the times in

which we live. It will extend to those around us, and in some degree to all who shall come after us.

The first thing that attracts attention is of its external structure—that children inherit the general form and appearance of their parents. Limbs, hair, teeth, nails, nose and expression of features are handed down from one generation to another. The Hebrew and Gipsy have a distinctive physiognomy, little modified by any external circumstances under which they live. The Bourbons have an aquiline nose, and a peculiar form of the ear, and the Imperial house of Austria has a thick lip. Frederick William I., father of Frederick the Great, we are told, was noted for his love of large men, and had a regiment of giants. He would not allow his guards to marry women of stature inferior to their own; on the same principle that stock-breeders deal with their cattle.

Heredity of form, even to the smallest bones of the skeleton, excess or defect in numbers, as well as anomalies, are recognized. There are some families in which the heart and blood vessels are very large, others comparatively small, and others again identical in forms of conformation. Lastly—and this is a point that more nearly concerns us—heredity regulates the proportions of the nervous system. This is evident in the dimensions of the brain and form of the cerebral convolutions, which may account, according to Gall, for the transmission of mental qualities. The fluids of the system, as well as the solid parts, may be transmitted. Thus in some families the members have a predisposition to inflammation, apoplexy, and hemorrhage, so much so that the extracting of a tooth, or the prick of a pin may cause in them a flow of blood that cannot be checked. We know a family in which the male members for six

generations have all died of hemorrhage from slight wounds. The girls seemed to have no disposition that way.

Fecundity, length of life, and personal characteristics which physicians call idiosyncrasies, are hereditarily transmitted. Dr. Lucas states a case where the sons, daughters and grandchildren of a couple were the parents of nineteen children, who were all endowed with the same fecundity. Girou mentions a case where a mother gave birth to twenty-four children, among them five girls, who in turn gave birth to forty-six children in all. The daughter of this woman's son, while still young, was then confined to bed with her sixteenth child.

Many of the French nobility were equally gifted. The great Condé family, and the first four Guises, were examples. Dr. Lucas says: "Everything tends to show that long life is the result of an internal principle of vitality, which privileged individuals receive at their birth."

It is a well known fact, that life insurance companies require information on the longevity of the ancestors of those who desire to effect an insurance. Again on the other hand, there are many families in which early death is of such common occurence that only by great precaution a few individuals can escape it.

The researches of Galton as to wrestlers and oarsmen, show that the victors usually belong to a small number of families, among whom strength and skill are hereditary ; there are also families in which dexterity and grace, are noted. The same in regard to voice, families of singers, and others who have no ear for melody ; even individual characteristics as stammering, and lisping. Most of the children of talkative parents are loquacious.

Dr. Lucas says, "Words—idealess, aimless and unbridled—appear in them prompted by a sort of elastic spring over which they have no control," and cites a case of a servant girl whom he once saw at a friend's house. She would talk to people who could scarcely get in a word edgewise. She would talk to dumb beasts and inaninate things, she would talk aloud to herself. She had to be sent away, but said she to her employer, "it is no fault of mine ; it comes to me from my father ; the same fault in him drove my mother distracted, and one of his brothers was like me."

Albinism, harelip, strabismus, myopia, and sexdigitism, whether they be the result of an excess, or of an arrest of organic development, are transmissible.

When a child, the writer visited a plantation on which was born a baby with six-fingers. The circumstances connected with the event was somewhat peculiar, and may perhaps be of interest. The mother of the infant was about fourteen years old, had been raised in the family of her mistress with all the privileges of a favorite servant, whose mother had nursed at her breast the youngest child of the family. This girl had been assaulted, but she persisted she did not know the author of the deed, and every effort at discovery proved unsatisfactory.

When the child was born, the black mammy Accoucheur, brought it into her mistress and said, "De Lo'd done prove hisself, its a gall baby wi'd six fingers, its Bill Moyie's chile, shore." The evidence seemed incontrovertible, as this man's sister, mother and grandmother, had each of them six fingers on their left hand, therefore Bill was thoroughly flogged, who afterwards acknowledged the justice of the sentence.

The Jews were referred to as an example of a nation

jealously guarding its purity of race, and of the frequent intermarriage of near relations, with no baleful influence following such results. Now this statement must have been made unadvisedly and at random, for a little investigation into history and statistics, will show that the Jewish nation has preserved better than any other its distinctive character, and in them heredity is better seen than elsewhere. According to statistic tables of France and Prussia, it appears that this race is remarkably long-lived. In Europe they increase more rapidly than the Christian population. In Germany twenty-five per cent. of Christians die before they are six months old, twenty-five per cent. of Jews before they are twenty eight years and three months, fifty per cent. of the Christian population die before they are twenty-eight, while fifty per cent. of the Jews exceed fifty-three years.

Now as to the result of inter-marriage, the number of deaf-mutes is enormous. Idiocy, mental alienation, are also very frequent. According to the German statistics, there is one *idiot* in Silesia to 580 Catholics, to 408 Protestants, to 514 Jews. In Wurtemburg to 4,113 Catholics, to 3,207 Protestants, to 3,003 Jews, and one lunatic.

In Bavaria 908 Catholics, to 967 Protestants, to 514 Jews. In Hanover, to 528 Catholics, to 641 Protestants, to 337 Jews. In Silesia, to 1,355 Catholics, to 1,264 Protestants, to 624 Jews. In Wurtemburg to 2,006 Catholics, to 2,028 Protestants, to 1,544 Jews, (Bulletin de la Societe d' Anthropologie Vol. II.)

On the farther question of consanguineous marriages, we will speak later on.

The Jewish race has inherited the heirloom of immortality, incapable of extinction or amalgamation. It was long ago predicted.

"Lo, the people shall dwell alone and shall not be

reckoned among the nations." They have spread over every habitable part of the globe, they have lived under every dynasty, they have shared the protection of just laws, and the proscription of cruel ones. They have used every tongue and lived in every latitude. The snows of Lapland have chilled them, the suns of Africa scorched them, they have drank the waters of the Tiber, the Thames, the Jordan, the Mississippi. In every country, in every degree of latitude and longitude we find a Jew. Fierce, relentless persecution even to blood, but they have not been cut down. Intense hate has lighted the fagot, but they are not burned up. They were denied the privilege of possessing land, even their movable property and goods seized, and again and again were they subjected to insult. There is no other instance of any nation that could survive treatment like this. Tribes and people melt away, or become extinct altogether, or mingle in the nations among whom they reside. Though this is the treatment the Jews have met with, it is not the end to which Jews have come, for they number at this time, according to an estimate of the New York *Journal of Commerce*, between seven and eight millions. There are half a million in the United States, of whom 70,000 live in New York. Like their own bush on Horeb, Israel has continued in the flames, but unconsumed; truly, the aristocracy of sacred history bereft of coronets—princes in degradation.

The Jewish race as presented by history, possess very definite character with predominance of sentiment and imagination, with a great aptitude for the creation of poetry and music, passionate and full of imagery. Though we find very few painters and sculptors—no other race has given the world so high a proportion of

musicians. We need only to mention the names of Mendelssohn, Halevy, and Meyerbeer.

On the other hand, we find them ill endowed in scientific culture, philosophy, or military organization. The history of Art shows that the creative imagination is transmissible.

We find families of musicians, painters, and poets, although families of poets are more rare, nor is the reason hard to find. A painter must have an innate gift for color, and form. A musician a delicate sensibility of ear. Physiological conditions are not in the same degree necessary for the poetic faculty, and heredity is more closely connected with physiological conditions in the domain of life than in that of thought. Poets as a rule, are a passionate, ardent, sensitive race. Hence, the disorders and singularities of their lives, which is not favorable to the foundation of a family. Yet in examining the families of fifty-one poets, twenty-two were found to have had, one or more distinguished relatives. We will only mention a few of them.

Ariosto, when quite a child, wrote comedies. In his family we find his brother Gabriel, a poet of some distinction; his nephew Horace, Tasso's intimate friend and author of the Argument, and other works; Aristophanes, and his son Araros, author of five comedies; another son Nicostratos, who wrote fifteen comedies, and also another son, Philippos.

Burns inherited from his mother an excessive sensibility which made him one of the first poets of Britain. And of Byron, an English author has said, "If ever there was a case wherein hereditary influences could be pleaded as an excuse for eccentricity of character and conduct, that case was Byron's." He was descended from a line of ancestors in whom, on both sides was to

be found everything that could destroy harmony of character, as well as peace of mind. His mother eccentric, a haughty passionate woman, half insane. His father Captain Byron, was a man of dissipated habits. His grandfather, Admiral Byron, author of Travels, and his daughter Ada Lovelace, was distinguished for her mathematical abilities. Then we have the noted case of Coleridge, poet and metaphysician, the following list of whose descendents is taken from Galton. "His son Hartly, poet and precocious child, whose early life was characterized by visions. His imagination was singularly vivid, and of a morbid character. His son the Rev. Dervent, author, late Principal of Chelsea Training College, the only survivor of the poet's children. His daughter Sara, possessed all her father's individual characteristics, and of this union was born Herbert Coleridge, a philologist." Goethe inherited his father's physical constitution, but his mother's character.

Victor Hugo. His two sons and two brothers, Milton, his father, had great musical talent, wrote songs, his brother a judge, took great part in politics.

Wordsworth, poet and metaphysician. His brother an ecclesiastical writer, and his three nephews all distinguished scholars.

Now in a list of forty-two painters, Italian, Spanish and Flemish, Galton found that twenty-one had illustrious relatives. In England you have the Landseers and in France the Bonheurs. A visit to a few museums will show that families of painters are not rare.

In music, the Bach family is perhaps the most distinguished instance of mental heredity on record. It began in 1550, and continued through eight generations. During a period of nearly 200 years, this family produced a multitude of artists of the first rank.

Heredity among philosophers is somewhat rare, but this is less surprising when we bear in mind that few philosophers have left any posterity. Many scientific men take after their fathers, and it has been observed that the mothers or grandmothers of men of science were remarkable women, as of Buffon, Bacon, Cuvier and Watt. Buffon used to say he derived all his mental qualities from his mother. Benjamin Brodie, one of the most eminent surgeons in England, reckons six distinguished members in his family.

In literature we have the Bronte sisters. Their mother, a sensitive delicate woman ; Mr. Bronte the father, an intellectual man, but of ungovernable temper, at times sufficient to warrant the belief that he was insane. Patrick the only son, a brilliant boy, of strong appetite and feeble will, died early in consequence of inebriety.

Then we have Charles and Mary Lamb. Macaulay, his grandfather, an eloquent preacher, his father a brilliant writer, two uncles, one of them a general, governed a portion of Madras, the other was tutor to Princess Caroline of Brunswick. Seneca, his father, brother and nephew, the most accomplished Romans of their day.

Madame de Sevigné, her son, her cousin, Madame de Stäel, her grandfather, her father, her uncle ; the son and grandson of the latter were professors of natural science at Geneva. We might easily extend these names, but these are sufficient for the purpose.

It cannot be doubted that propensities, instincts, and passions are transmitted. The evidence of this form of heredity in man is conclusive, independent of example, eduction and habit—external causes which are supposed to stand in lieu of heredity.

Alcoholism as a rule, although not always transmitted in that identical form, may degenerate into mania and

idiocy. Also insanity in the parents may become inebriety in the descendants. This shows how near passion comes to insanity, and how successive generations are connected, and the weight of responsibility which rests in each individual. Dr. Magnus Huss, says: "partial or total atrophy of the brain is a frequent effect of Alcoholism, it becomes reduced in volume so that it no longer fills the bony case, the consequence is a mental degeneration which in the progeny results in lunatics and idiots." We knew several families in which the taste for drinks was transmitted by the mother. A brilliant lawyer in a Southern State, married a lady of most excellent family, beautiful, cultured and wealthy, her father a most distinguished Judge of the Kentucky bar, contemporary with Henry Clay, and charged with important public functions. For a long time he suceeded in concealing his alcoholic habits from the public, but at last fell a victim to his appetite. He had three children, one daughter and two sons. One son died of convulsions in infancy, the other at the age of nineteen had to be sent to an asylum for the insane. The daughter referred to, developed a fondness for drink, after her marriage and died from disease induced from chronic alcoholism, leaving six children, two sons and four daughters, all seemingly healthy. One son, a lawyer, committed suicide at forty-two years of age. The second son, a physician of passionate and misanthropic temper, married and had two children, then broke off all relations with his family.

One sister suffers from nervous disorders, which takes the form of hysteria, two younger daughters remain unmarried, very intelligent, but are considered a little "queer." The eldest sister, a very handsome woman, a specimen of perfect physical development, and who

seemed entirely free from peculiarities, was happily married to a man of opposite temperament and appearance. Every outward circumstance and condition was favorably indicated for happiness in this union.

Six daughters and one son were born to them, and we fain had hoped that the curse on the house had been removed, but the third daughter was feeble minded, had to be cared for as an infant, and was finally burned to death by her clothes taking fire. Another daughter, very intelligent, but of nervous temperament, and subject to intermittent attacks of insanity. The only son a successful physician, but has developed an appetite for drink, while the youngest daughter committed suicide by throwing herself from a third story window.

Here we see in the first generation alcoholic excess, in the second insanity and dipsomania, in the third hypochondriac, suicidal mania, hysteria, in the fourth imbecility, mania, insanity, and dipsomania. The daughters have all married, and there are now several children representing the fifth generation. We shall watch with interest the outcome; the children are all healthy and physically well developed, but we have it on well authenticated authority, that the eldest daughter—the first child of this fifth generation—when quite young, evinced an unnatural cruelty, tearing wings off flies, sticking pins in the cat, and other torments to animals.

This exhibits the wonderful tenacity of heredity. Its law is absolute transmission, and in spite of all the obstacles which tend to weaken or destroy it, struggles on without truce or pause. When we see the same characters reappear, some times after a hundred generations, it is indeed a matter for reflection. We cannot say to what change in the brain such and such a decay of intellect, or such and such a perversion of the will is

to be attributed. The anatomy of the brain is not sufficiently advanced to explain it, cerebral phenomena and physical phenomena are so closely connected that a variation of the one implies a variation of the other.

The only way of getting a clear idea of a case of psychological and moral decay, hereditarily transmitted, is by finding for it some organic use.

Let us suppose a man of average organization physically and morally, that in consequence of disease, influence coming from his surroundings or from his own will, his mind is impaired to only a trifling extent, it may be, but yet permanently. Clearly heredity has nothing to do with this decay, but then it is transmitted to the next generation, and if the same causes go on acting in the same direction, it is clear that heredity in time becomes a cause of decay, and if this slow action goes on with each new generation, it may end in the total extinction of the intellect.

Dr. Morel in his work states that he had an opportunity of proving the hereditary effects of alcoholism in the children of the commune. He inquired into the mental state of 150 children ranging from ten to seventeen years of age, most of whom had been taken with arms in their hands, behind the barricades. "This examination," he says, "has confirmed me in my previous convictions as to the baleful effects produced by alcohol, not only in the individuals who use this detestable drink to excess, but also in their descendants. On their depraved physiognomy is impressed the threefold stamp of physical, intellectual and moral degeneracy."

It seems hardly necessary to hint on the heredity of the sexual appetite, as a multitude of names famous in history offer themselves in support of our position. Augustus and the two Julias, Agrippina and Nero,

Benedict IX., Alexander VI., and his children, and Francis 1st. In all classes of society similar facts may be found, in which this unfortunate disposition is hereditary.

We have several well authenticated instances that came under our observation, but from the nature of the subject, the illustrations are scarcely proper to present in a paper like this.

Not only physical propensities, but sensations, instincts and dislikes, gambling, theft and murder are subject to the law of heredity. And whatever opinion other observers may hold, I cannot help but think that the extreme passion for getting rich, which absorbs the whole energies of a life, predisposes to avarice and mental degeneration in the offspring, which under suitable conditions may make outbreak in insanity. The records of judicial proceedings will show the hereditary tendency to thieving. Although it is difficult in many cases to determine how much is due to education, and what to nature, for the children of thieves are not likely to be trained to honesty by their parents, but nature is always the stronger agency, just as poison is more potently active than the antidote. You cannot by any power on earth make a rose anything else but a rose. You may by the influence of soil, sunshine and moisture make it more beautiful, and even more fragrant, and the moral law follows the same order of results.

We have seen instances of two conflicting heredities, one good, from the mother, and one bad, from the father, where parental influence was impossible, and cut short all explanations drawn from influence of example. For several years we were on the board of managers of an orphan asylum, in which we had ample field of observation, and afforded many curious examples. We will

only cite an instance, in which the facts are absolutely incontestable.

A family of three children—a girl six years of age, a boy four, and a girl two—their father came to this country from England when a boy. *His* father had been condemned to degrading penalties for some criminal act. His mother left the country with her only child, this boy, whom she had made every effort to bring up well. When he was thirteen years of age he was apprenticed to a mechanic, but was of an unsteady disposition, addicted to thieving; would steal things he did not want —bibles, prayer-books, as well as cigars and trinkets— which he always gave away. He was never known to retain for his own use any article of plunder he obtained. He grew to manhood, a rather good-looking fellow, and succeeded in marrying a girl of respectable family; but he was finally sent to State prison for robbery and incendiarism. His wife, three months after his sentence, gave birth to a female child. She struggled on with poverty and humiliation for two years, when she died. Application was made for receiving the three children in the Orphan's Home. I opposed their admission on the ground of their hereditary history, arguing that we surely should be put to shame, besides endangering the morals and habits of the other children. But our argument was silenced and objections overruled by older members, who considered us not only visionary, but uncharitable as well.

Now mark the result. The eldest girl was always pilfering. She would steal everything she placed her hands on. She was intelligent and amiable, kind to the small children, and somewhat trustworthy in the way of taking care of the helpless and sick; but for her unfortunate habit she would have been classed the best child in

the institution. As she grew older, we found many complications arising, and we decided to find her a home. Four times she was returned to us, although we always informed of her weakness; yet the sympathetic benefactresses were too severely tried to carry through their good intentions.

The boy proved to be of most excellent character, and intelligent. When he was fourteen years of age he was adopted by people who were childless. He is now a member of an honored profession, respected in his community. Married a lady of wealth, and of the best social position, but I have not had opportunity of further following his history. The youngest sister was taken by a benevolent lady, the mother of a clergyman in a neighboring city, and brought up from her eighth year with all the refining influences of a cultured home, with beauty, grace and accomplishments, but her character was unreliable. She was restless and unstable. She kept her benefactress on the wing, never satisfied to remain long in one place, seemed to have no home attachment, and was given to falsehood. She would tell a lie in preference to the truth, when it seemed uncalled for. After several years of *outré* escapades, she married and moved to a western city; but rumors of forgeries came in the wind, and one day she was discovered in her room, dead from an overdose of chloroform, admin istered by her own hand for nervous headache.

In many cases the conditions which produce passion and crime are both identical, and to the interest of science, inquiries should be made as to the progenitors of criminals for at least two or three generations, Drs. Ferens and Delat, demonstrated, that insanity is much more frequent among criminals than in other persons, which goes far to prove that crime and insanity are

closely connected. The number of criminals whose ancestors have given signs of insanity is very great, Dr. Bruce Thompson in his work on "The Hereditary Nature of Crime," states of 5,432 prisoners, he found 937 whose mental state appeared to him to be unsound, although to the general opinion, they were not subjects for a lunatic asylum.

Out of 904 convicts in prison at Perth, 440 were recommitted, in a house of detention ; there were 109 members prisoners belonging to 50 families, among them were eight members of one family, and several families were represented by two or three members.

A family for many generations seems to have criminal tendency ; perhaps the members are not in any generation guilty of great crimes, but often of lesser ones, and all in the daily practice of vices that give rise to suspicion, and reproach. Here together are associated, and made hereditary, poverty, ignorance, idleness, beggary, and vagrancy. How is a boy or girl of such a family to rise above these circumstances, and throw off these weights ? Occasionally one of great energy of character may do so. The tree and the herb produce seed, and the seed again produce the tree and the herb, each after its kind– there is a continued production and reproduction. It is not often easy, nor always possible to make the proper distinction between the characters and condition of the prisoners ; men are tried and convicted of crimes according to rules and definitions which are necessarily arbitrary and techinal, but the moral character of criminals is not very well defined, by the rules and definitions which have been applied to their respective cases. Our prisons contain men who are great and professional criminals. Men who advisedly follow a life of crime themselves, and educate generation after generation to a career of infamy

and vice. As a general thing mercy to such men would be unpardonable folly. The prison is a battle field of vice and virtue, with the advantages of position and numbers on the side of vice. Indeed there can hardly be a worse place for the young or inexperienced in crime. This is the testimony of reason and experience. Consider this case, reported in an English Journal, "The Ragged School Magazine." D. F. aged fourteen, mother dead several years, father a drunkard, and deserted him about three years ago, has since lived as he could, sometimes going errands, sometimes begging and thieving, slept in lodging houses when he had money, but very often walked the streets at night or lay under arches, or door steps. Has only one brother ; *he* lives by thieving, does not know where he is, has no other friend, that he knows, never learned to read, was badly off, picked a hankerchief out of a gentleman's pocket, and was caught by a policeman, sent to Gilt Spur Street prison, was fed on bread and water, instructed every day by Chaplain and schoolmaster, much impressed with what Chaplain said, felt anxious to do better, behaved well in prison, was well flogged the morning he left, back bruised, but not bleeding, was then turned into the street, ragged, barefooted, friendless, homeless, penniless, walked about the streets till afternoon, when he received a penny from a gentleman to buy a loaf, met next day some expert thieves in the Minories, went along with them, and continues in a course of crime and vagrancy."

And what else could have been expected? The goverment having sown tares, had no right to gather wheat Many a man who only succeeds in making himself decent in life, will stand higher when he comes to his reward, than another that all his life was as sweet as a rose.

We must not always look upon the prisoner as a criminal, and continually disregard his claims as a man, yet at the same time, we must guard against letting down the bars of justice on the ground of irresponsibility. The criminal may be reckless at the time of consequence to self; when the storm of passion is over, he may awaken too late to receive the benefit of human mercy.

Bickersteth in his "Yesterday, To-day and Forever," puts words in the mouth of Satan which gives us a true light upon this subject. When asked by his rebel host for the third time to plead to God for mercy, with the promise of full repentance for their deeds, he turns upon them sadly and answers.

> "Is it true we bitterly repent us of our deeds?
> Oh, comrades, search your hearts as I search mine,
> 'Tis the issue we repent, but not the act."

Defects in the process of development are more apparent in complex organisms, than in lower and simpler forms of organic life—since there is more machinery to be disturbed by extraneous influences and more internal friction to wear away their structure. It is not reasonable to suppose that the nervous system of man could escape this law of nature. A lesion so slight in the brain that the microscope can scarcely detect it, gives rise to disorganization called delirium, insanity, monomania. A rush of alcoholic blood or a few drops of opium or belladonna, may produce surprising results in the mental machine. We may lay down as a general truth, based on experince, that the more complicated the mechanism the greater the disproportion between accidental causes and their effects.

Geoffrey Saint Hilaire, in his "Histoire des Anomalies" to which we would refer you, is full of curious facts well fitted to stimulate thought. It will be seen

that insignificant causes are sufficient to effect inequalities of development, checks to growth which make anomalous beings in some respects, in which nature has halted half way. He even goes so far as to say: "It is possible to produce monsters at will, and that these deviations from the type are produced by trifling causes," and Blumenbach states the case of a man who had accidentally suffered an injury, had one of his fingers set badly. He had several sons afterwards, each one of whom had that finger crooked.

"The Esquimaux," says de Quatrefages, "cut off the tails of the dogs they harness to their sledges, and the pups are often born tailless."

We find the following in the *New York Medical Journal* of April 26, 1890:

"Weissman in his treatise denies the inheritance of acquired deformities, calling attention to the fact that cutting off the tails of animals has not made their descendants tailless. Brown-Sequard has found, however, that lesions of the sympathetic among animals produce defects in the offspring. Dupuy has found, structural changes resulting from destruction of the cervical ganglia, even as late as the seventh generation. The descendants of animals that have been operated upon present, together with ocular difficulties, a remarkable symmetry of the cerebral hemispheres."

Habit is an acquired disposition, and it is proven that individual habits are transmissable.

Darwin notes many instances.

If you try to hatch eggs of wild ducks under tame ducks, the ducklings will scarce have left the shell when they take their flight. The same is true of wild birds. We came into possession of eggs of some birds of beautiful plumage in Southern Florida, which we placed under

chickens, and hoped to domesticate. To our disappointment they took wing, nearly as soon as they emerged from the shell. We are told it would take several generations to make tame birds.

This is equally true of wild horses. The colts are broken with great difficulty, even after taming they are not so docile as those horses born in domestication. A celebrated horse trainer in Kentucky, said to me "that colts bred of a well broken sire and dam, sometimes come into the world with a marked aptitude for training; that he could select brood stock from horses that had been practiced in the circus, even he could give peculiarites of different stock as displayed in colts of "Goldust" "Black Hawk" "Eclipse" and others.

Now as to the question of consanguineous marriages. Ancient legislation as well as prevailing opinion,—which must have been based on experience as well as prejudice —do not seem unanimous on this point. The laws of Man, the Mosaic code, the laws of Rome, the Christian councils and the texts of the Koran, all condemn consanguineous marriages. Opinion has been adverse to them, among nearly all civilized people. Yet the ancient laws of the Persians, and of the Egyptians, permitted the marriage of near relations. Darwin finds considerable number of proofs which condemn unions between the same blood. Prosper Lucas and Dr. Boudin condemn them without reserve. Boudin gives a large number of facts and figures in support of his stand, and considers them the undoubted cause of many morbid phenomena, many which concern the mental life; for instance, deaf-mutes, idiocy, and epilepsy. In his view "consanguinity is of itself essentially baleful, and determines without the concurrence of any other morbific

cause, the appearance of many grave diseases and infirmities."

Burdach attributes good results to consangunity, but only among animals. Dr. Burgevis wrote the history of his own family, which was the issue of a union in the third degree of consanguinity. In the course of one hundred and sixty years there were ninety-one marriages in the family, sixteen of them consanguineous, and yet there resulted neither infirmity nor sterility. Similar facts are recited by Dalby. If the parents enjoy perfect health, consanguinity will tend to preserve it in their descendants; then it will have good results, but the equilibrium which constitutes physical and moral health, may be easily disturbed in the parents, and the consequence will become evident in the children.

The chances are many, that the disturbance will be of like nature in both parents, hence it follows that in many cases such unions will be injurious, and all the more dangerous in proportion as the morbid predispositions common to both parents are more marked From these facts it would appear that the near relationship of fathers and mothers is not hurtful, but in consequence of the laws governing heredity, it oftentimes becomes so, and in view of the eventualities which lead from this cause, it is at least prudent to avoid consanguineous marriages. Lucas says: "History witnesses to the disastrous consequences which it brings upon man."

Nichburhr says: "Aristocracies to recruit their numbers among themselves become extinct; in the same way passing through degeneracy, insanity, dementia and imbecility." Spurzheim gives this reason for the frequency of mental alienation and of its heredity in the great families of France and England. According to Dr. Boudin, the danger of consanguineous marriages is

shown from the following facts. (Memoire de la Societe d'Anthropologie.) In Berlin there were in 10,000 Catholics three deaf mutes ; 10,000 Protestants six deaf mutes; 10,000 Jews twenty-seven deaf mutes.

In the United States in 1840, the negro population, who were given to promiscuity, showed in Iowa ninety-one times as many deaf mutes as the whites. About the year 1862, Prof. Bemis, M. D., of Louisville, Kentucky, prepared a report of the intermarriage of cousins and relations in that State, with a petition urging the Legislature to prohibit by statutory law such marriages. There were two or three counties in which near relations had married and intermarried, until they could not define what relationship they stood in to each other. The baleful influence of such unions was seen in Albinism, deaf mutes, blindness and imbecillty, as a result of a large per cent. of the issue. I am sorry I cannot get the report, as the work is out of print.

If we sincerely desire the world's welfare and our own progress towards perfection, we should concentrate all our efforts to enlist the active moral forces of society to work by sympathy, advice and teaching, by personal contact and that wonderful force of example,—which makes every better kind of life a magnetic power—by the softening of character and the gentleness of nature that diffuses and has such a potent influence among the lower kinds —by raising and ennobling our own motives for helping each other, and above all, by constant efforts to enlarge and increase our powers of seeing truly, so that we may understand what are the causes of the evils we see round us, and what are the conditions under which they can be successfully attacked. There is a beautiful statue concealed in every block of marble, which may be discovered by the skill of the sculptor. May we not entertain

the thought that an angel reposes in the rudest form, which some skilled moral artist may awaken.

It is true that after long forbearance, earnest effort, and patient waiting, we may not develop the angel when we waited and watched for its advent, but the effort must serve to mould our own natures into the likeness of the grand ideal that stands revealed in the temple of the soul. When the evil that obscures the moral vision is removed, and we stand at last in the clear light of the great hereafter, all will be well if we shall have fashioned the angel within us.

Note.—The author is indebted to the writings of Blumenbach, Dr. Boudin, Geoffrey Saint Hilaire, de Quatrefages, Ribot, Dr. Lucas, Esquirol, Dr. Moreau, Dr. Morel.

*DELIRIUM TREMENS AS A DEFENSE TO CRIMINALITY.**

By T. Crisp Poole, Esq., Barrister-at-Law, Brisbane, Australia.

In a murder case recently tried at Ipswich, Queensland, a verdict of not guilty on the ground of insanity was returned; it being shown that the prisoner was mad through *delirium tremens* at the time of the homicide. The facts of the case were that the prisoner, who had been a heavy drinker, returned home after a period of absence about ten days before the occurrence. He did not keep entirely sober for the first few days after his return, but showing symptoms of disorder he was after this watched by his family. He had complained of pains in his head, and was frequently seen to go to a tap and put his head under the flow of water. In addition to this he was the victim of delusions with respect to the clock and the pictures on the wall, supposing that the one was talking to him and that the figures in the other were approaching him. He had, besides, an idea that he was about to be killed, and would frequently fall on his knees and repeat words of prayer, sometimes in the open street, and would call upon the members of his family to join him in praying. Prior to this, it had not been his practice to be much concerned about devotional exercises. In consequence of this extraordinary behavior he was, for a few days before the fatality, never allowed to go anywhere unless accompanied by some member of his family or a friend. The homicide took place on a Sunday night (Feb. 24th, 1889), and as this supervision had been kept up since the preceding

* Read before the Medico-Legal Society, January 8, 1890.

Thursday, it was proveable that he had taken no alcoholic liquor during the interval. But the symptoms not abating he was taken to see a medical practitioner on the Saturday, who gave his opinion that his patient was on the verge of an attack of *delirium tremens*, and prescribed for him accordingly. The malady broke out in all its violence on Sunday, and especially towards night, although the sufferer had been sufficiently collected to attend public worship on the evening of that day in company with a friend. He made several frantic efforts to get away from the house during the night, and it was with difficulty that he could be sufficiently calmed to be induced to make another attempt to get some rest. At last his father, towards whom he had always been an affectionate son, persuaded him to come into his own room and lie down. About five minutes afterwards the son was seen coming out of the room with a razor in his hand, and it was subsequently found that the father's throat had been fatally cut by a severe wound. The son's violence seemed to abate after the perpetration of the act, and he was frequently heard exclaiming "I have killed my poor old dad." On being subjected to another medical examination after the occurrence (and by a different gentleman from that one who had seen him on the Saturday) he was pronounced to have just passed through a fit of *delirium tremens*. All the evidence in the case, both for the prosecution and the defence, supported the above showing so strongly, that after very short deliberation the jury returned a verdict of not guilty on the ground of insanity. The prisoner was directed to be kept in close custody in Brisbane gaol till Her Majesty's pleasure could be known. It may be added that the

prisoner and his father had previously lived together on terms of perfect amity.

Such is a brief summary of the facts elicited; upon which facts no one acquainted with the law of insanity could hesitate for a moment to approve the verdict. No new rule of law has been introduced by the above decision, for it has already been established both in England and America that insanity through *delirium tremens* is a good defense to a criminal charge (*see Regina v. Davis* 14 Cox C. C. 563 and *United States v. McGlue*, 1 Curt. 1.) Nor is there any difficulty to the legal and medical professions in perceiving the difference between this disorder and the mere state of drunkenness which we do not recognize as an excuse for crime. To the public mind, however, the distinction is not so obvious, which only sees the mischief that has been done, and so reflects that this equally with the drunken crime is the consequence of the prisoner's unsobriety. In both cases misconduct has brought about a suspension of the working of the reasoning faculties, and during that interval of suspension an act has been committed fearful in its consequences, irreparable in its character (at least when it amounts to homicide), and one which the doer would never have perpetrated in calmer moments. Such is popular reasoning, which frequently fails to perceive the justice of allowing the sufferer from *delirium tremens* to escape as an insane person, while the ordinary drunkard must pay the full penalty of whatever crime he may have committed while in the inebriate state. It is important then, that a clear and logical reason should be given for the distinction, and one that can be understood not merely by the trained intellects of physicians and lawyers, but also by the general populace. Especially is this the case because there is an unquestionable

element of truth in the argument that the consequences of *delirium tremens* are the result of misconduct no less than those of drunkenness. It is not a sufficient answer simply to say that *delirium tremens* is a disease, while drunkenness is only a temporary derangement. The public will still want to know why the one and not the other excuses a man from the penalties of his acts, seeing that both conditions may be traced to his own intemperance. But we can justify the distinction by showing that the dangers which would result from allowing the plea of drunkenness do not operate in the other case, and that there are elements present when a man is suffering from *delirium tremens* which are otherwise recognized in mitigation of liability.

First then it must be remembered that our law has always exempted a man from liability for the indirect consequences of even his unlawful acts. This principle was justified by Lord Bacon, in consequence of the infinite calculation of consequences which would be necessary were it held otherwise.* Many civil cases have been decided where a wrongdoer was exempted from liability on this principle, even though the injury complained of was the clear, though secondary result of his own fault. The case of *Sharp v. Powell* (L. R. 7 C. P. 253) is as strong an illustration as any. Here the defendant was unlawfully washing a van in a London street, and during a severe frost. In consequence of the frost the gutter was frozen down which the waste water would have escaped in the ordinary course of things. Owing to this freezing the water spread over the roadway and formed a sheet of ice upon which the plaintiff's horse slipped and

* "It were infinite for the law to consider the causes of causes, and their "impulsions one of another; therefore it contenteth itself with the immedi- "ate cause, and judgeth of acts by that, without looking to any farther 'degree."—*Maxims of the Law. Regula* 1.

broke its leg. The frozen gutter was out of sight of the van-washer, who was held not to be liable for the injury occasioned, seeing that it was not the immediate consequence of his unlawful act. The principle is that so soon as some cause has intervened, not the necessary consequence of the tort, and the damage is the combined result of the tort with some extraneous circumstances, we have then an end to the liability of the doer of the wrong.

So with respect to criminal liability, a man is not answerable for what is but an indirect result of an unlawful act. If I give a man a severe but not necessarily fatal wound, and owing to his weakened state of health in consequence of that wound he succumbs to the effect of a casualty which subsequently befalls him, and which would not have been fatal to a strong man, I am not guilty of murder, though this man's death would not have taken place but for my act. Liability, criminal and civil, is limited to those probable results of unlawful acts which must be presumed to be within the contemplation of a reasonable man when he commits the deed. And it is recognition of this principle which will explain why we accept the plea of madness when deeds of violence are perpetrated under the influence of *delirium tremens*. Remoteness of damage is a good defence in criminal as well as in civil procedure, and we see, and shall see more fully farther on, that *delirium tremens* is only a remote consequence of intemperance. Not so drunkenness, which is its direct and well-known effect. It is a familiar fact that excessive indulgence in alcoholic beverages will produce this state, and in accordance with the maxims on remoteness, whatever violence be the direct consequence of that which is itself the direct consequence of any wrong is regarded as the direct conse-

quence of that wrong. It may be said that the state of *delirium tremens* is likewise the direct consequence of intemperance. In untechnical speech perhaps this is so, but it is not direct in the sense in which a lawyer applies that term to the reasonable and probable consequences of a man's act. A direct consequence of an action in the legal sense is that probable result which it may be presumed that a reasonable man would expect. Such a consequence is a fit of drunkenness after an excessive use of alcohol, since this is the inevitable and certain effect of such excess. It is, therefore, within the contemplation of the parties who allow themselves to be thus overcome. They know the condition which will follow their intemperance; they are aware that it is one in which they will be temporarily bereft of reason, and very likely be excited to violence under less provocation than would rouse them in their normal condition. They deliberately accept this risk, and cannot, therefore, be heard to plead after commission of some atrocity the condition into which they have voluntarily plunged themselves; in short, to profit by their own wrong. Far otherwise is the case of the sufferer from *delirium tremens.* His frenzy is not the consequence of a single debauch, nor the certain effect of any particular act of volition. It is not this or that bout of drinking which will certainly produce this malady with its attendant outbreaks, or if medical precision could in any case specify the very occasion when the mischief was completed, it cannot be presumed that the average man would have this knowledge. *Delirium tremens* is the result of an accumulated series of pernicious indulgences; the precise time when it will break forth, or whether it will break forth at all in his own case, being alike beyond the knowledge of the party affected. From this

alone there follows a deduction which allows us to extend an indulgence to this class which we deny to the mere drunkard. *It is not in a man's power to produce the state of delirium tremens upon himself at will.* The long succession of dissipations which is likely thus to end is a work of time; it is extremely improbable that any man would deliberately set to work to bring himself into this condition, in the hope that while so affected or reputed to be so he may perpetrate some offence and yet escape the penalty. But the state of drunkenness can be produced in a few hours or even in less time; and to admit the plea of drunkenness as an excuse for crime would be to give every man a means whereby he can escape the consequences (at least in part) of any crime which it may please him to commit. This is the principle upon which recognition of this defence is resolutely refused; any man could otherwise bring himself at pleasure within the immunities of insanity. And it is in accordance with this principle that there is one case in which we do recognize drunkenness as a defence to criminality; namely, when a man has been made drunk through the act of another and not from his own choice, as for example, when he is offered some alcoholic liquor, it being represented to him that it is a non-intoxicating beverage.

There is moreover another reason, and a strong one, why indulgence should be extended to the sufferer from *delirium tremens.* We read that his disorder is frequently immediately produced by *abstinence from*, not indulgence in, alcoholic liquor (see Taylor's Medical Jurisprudence, 3d edition, vol. 2, p. 585). The symptoms do not appear while the inebriate is continuing his perilous course, but show themselves some days after a change of conduct has taken place. The case at Ipswich is in

strong illustration of this fact, for we saw how the homicidal fit set in, or at all events culminated, on a Sunday, the patient having taken no alcoholic liquor at least since the preceding Thursday. Although intemperance therefore is the ulterior cause of this condition, it is abstinence which is frequently its immediate one. It may then be the inevitable accompaniment of an honest effort at reformation. The habitual drunkard sets resolutely to work to amend his ways. He denies himself the gratification of his accustomed craving, his constitution misses its wanted stimulus, and a fit of this malady ensues. Surely it were the height of inhumanity, the acme of impolicy, and the climax of injustice, were the secondary cause of drink to be regarded in estimating criminality rather than the primary abstinence. We need to hold out every incentive to reformation to the inebriate class; and we should not be doing this were we to judge an outburst which may be the necessary effect of an attempt at that reformation as we should judge the ordinary consequences of drunkenness. It is thus clear that the distinction can be logically upheld between a direct and a secondary result of intemperance, between voluntarily placing one's self in the state of intoxication and being the victim of a gradually culminating distemper; between the pure effects of one period of dissipation and the diseased state of brain which is the eventual consequence of many. Nor are these distinctions so fine as to be imperceptible except after scientific training for the legal or medical profession, but are broad enough to be understood by the general community who need not be perplexed to see the justice when one man is excused and another condemned, both having committed homicide or some lesser violence while suffering from the consequences of intemperance, because in

the former case the suffering has taken the form of an attack of *delirium tremens*.

But although the logic and the justice of thus distinguishing the two cases can be so amply maintained, the fact remains that when homicide or other injury has been committed under the influence of *delirium tremens*, irreparable or at least considerable mischief has been done, which mischief is the unquestionable though indirect consequence of the perpetrator's wrong. There will be neither injustice nor impolicy in subjecting him to some sort of penalty. In the recent Ipswich case the court, after the verdict of not guilty on the grouud of insanity, sentenced the prisoner to be detained in close custody in Brisbane gaol until Her Majesty's pleasure were known. Such a direction may be regarded as partly remedial and precautionary, yet it needs little penetration to perceive in it likewise a penal element. No doubt was entertained at the trial but that the prisoner was then as sane as any man concerned in the case. It was to him that the learned judge directed his speech when stating how his person was to be disposed of. The direction of the court was spoken of as its *sentence*, and it was to a gaol, not a lunatic asylum, that the prisoner was consigned. All these circumstances point to the conclusion that although the court would have regarded it as unjust to have executed this man as a murderer, yet it would not be possible on the other hand to deal with him quite as an innocent victim of an overpowering disease. He had given way to intemperance, and that weakness led to the homicide of his father. A life was sacrificed and a home desolated, and all because the prisoner in his earlier career had neglected to exercise that self-control which would then have averted all these distressing consequences.

Nor would it be wise to be *too* lavish in mercy towards this class of madmen so long as the vice which produces *delirium tremens* is so frequent, and the facilities for fostering it are so great. It suffices if acts of violence by such men be taken out of the category of unmitigated crimes, and opportunity be given to the perpetrator to live a reformed life after an interval of confinement. This moreover should be long enough to cure him of any lingering remains of his propensities toward alcoholism, and severe enough to teach him that he is not regarded altogether as an innocent victim of misfortune. He need not be treated exactly as an ordinary convict, and the rigour of prison life may be relaxed so far as is consistent with the discipline to which there is a two-fold reason for subjecting him. The more obvious purpose of the confinement is to guard society against the danger of another outbreak, of which more farther on ; but it is also important that the public should know that such dire results of intemperance, even though they be immediately caused by a diseased brain, are regarded as preventible in the eye of the law. It has frequently been enunciated that the object of passing sentence upon a criminal is not so much for the sake of punishing himself as that others may be deterred by the example from following similar practices ; and if it be too late to avert an attack of *delirium tremens* after intemperance has reached a certain stage, it is at all events possible to caution habitual drinkers against allowing themselves to approach this terrible danger. And while the temptation to drunkenness is so powerful in its victims and so fearful in its consequences, it can never be politic to regard with too much indulgence the perpetrator of a tragedy which need never have taken place had he but

exercised in younger life that self-control which the law makes incumbent upon all, the insane alone excepted.

So much for the penal element of a sentence passed upon a sufferer from *delirium tremens*. We have now to consider the other object of his detention, which is remedial. It is obviously right in his case, as in the case of a dangerous maniac of any kind, that he should be kept under control till all fear of a repetition of his violence shall have passed away. But the sufferer from *delirium tremens* needs to be guarded not only till danger of another attack from former causes is over, but until the appetite for alcohol should be so subdued that he may be trusted to walk free amid those facilities for drunkenness which in our large towns are only too frequent. Would it be too severe to enact that when a homicide has been committed under the frenzy of *delirium tremens* a detention of the perpetrator for not less than two years should follow, and that a proportionate minimum of detention should be fixed for deeds of violence not ending fatally? Time would thus be given not only to assure one's self that the effects of the former attack were over, but also to break the violence of the alcoholic passion and to mitigate the risk of further intemperance. As we are told, moreover, that medical science now possesses greater resources than formerly for destroying the unnatural craving after stimulants, such a period would admit of the administration of remedies under competent medical supervision, while the patient would be restrained from nullifying their effect through yielding to his old temptation. If it be said that two years would not in every case be needed to achieve these results, the reply is that according to the views here expressed such detention

should be penal as well as remedial, and that a detention for two years is not too heavy a penalty for homicide under the ravings of madness, when that madness is itself the consequence of immoderate indulgence.

But, in conclusion, the Ipswich murder (so-called) enforces a lesson in theory long ago embodied in a popular proverb, but in practice still so frequently forgotten—prevention is better than cure. We are told that the result of a medical examination on the morning of the day preceding that of the homicide was a prediction that an attack of *delirium tremens* was imminent. It is well known that this disorder frequently breaks out in violence toward's one's self or others, in which either the patient's own life or the lives of those attending upon him is put in peril. It is known that under the influence of this disease persons will fancy themselves pursued by wild beasts or fabulous monsters, and will perceive their forms in the living persons by whom they are surrounded. It is also known that these attacks are more liable to come on by night than by day. In the face of these probabilities, why is not restraint imposed before the mischief has reached the stage of being dangerous? It is true that in the Ipswich case a certain watch was exercised by the members of the sufferer's family. But it is seldom in the power of a private household to exert such a control as is necessary under these circumstances, nor are the appliances to hand which may be requisite for the maniac's restraint. The only safe course is to hand over the individual in whom symptoms of *delirium tremens* appear to the custody of some authorized and responsible body that he may be kept under sufficient guard till the apprehended danger is over. Could this have been done in the case which has thus been dis-

cussed, the madness may have spent itself in a few harmless paroxysms, the life of an inoffensive old man would not have been sacrificed. Ipswich would have been spared a trial for murder, and the confinement of the patient himself may have been shorter and less rigorous than that which he may now have to undergo as the acknowledged perpetrator of a horrible tragedy.

EPILEPSY AS A DEFENSE FOR CRIME.

INTRODUCTORY.

By Prof. John J. Elwell, of Ohio.
Vice-President of the International Medico-Legal Congress.

In a late important case of homicide in our courts here, this trouble, being used as a defense, suggests my theme.

Before discussing the subject of epilepsy, there are two or three popular and professional errors or fallacies as I conceive, bearing upon the main question of insanity deserving some attention, to wit:—

1. The looseness and uncertainty with which the term insanity is used.

2. The erroneous idea that the insane are murderous in disposition *per se* should be corrected.

3. The theory that once insane always insane, and that insanity descends to the latest generation and to all collateral branches of the family, is a fearful error. It is not necessarily and certainly hereditary. It may be.

As alienists differ widely and irreconcilably, as to the meaning of the term insanity, you would not be far out of the way, Mr. President, should you require each writer or speaker, to clearly define the exact meaning in which he uses the term insanity. Writers seem ready enough to attempt a *general definition* of the term, which really means nothing. They start out usually with the remark that the term cannot be defined, then attempt to define it. You have been printing these definitions, in large numbers from time to time, from leading alienists, no two of which are alike, as a matter of

course, for insanity is one of those comparative and indefinite terms like health, strength, sickness, light, darkness, good, evil, weakness; having no settled general standard of meaning, and must be used relatively. Health in one man, is sickness in another, etc.

A writer, however, on any one of these subjects should be able to give us *his* standard, and tell us what *he* means when he uses one of these terms. So of the term insanity, every writer who undertakes to discuss the subject, should first tell us in what sense *he* uses the term, and it should be in such exact language, that there can be no misunderstanding as to his meaning. If he can not do this, then he writes to no purpose, for no two persons will understand him alike. It is doubtful if he clearly understands himself.

Hence confusion, contradiction generally, and an unsatisfactory condition of testimony on this subject. Lawyers are irritated, the courts disgusted and the medical men themselves dissatisfied and embarrassed.

David Dudley Field has said: "It is curious to observe with what different views, different persons regard the question of insanity. The lawyers do not agree with the physicians or among themselves. The physicians do not agree with one another. Scarcely any two writers with one another, or for that matter any two judges agree upon the definitions or tests." They do not understand and use the term alike. Hence confusion.

This experience of the great lawyer, is what happens to the members of the bar generally. This condition of things should not exist. When Mr. Field, Dr. Stephen Rogers, Dr. Channing or Dr. Stearns and many others, write or speak on this difficult subject, they are understood precisely, because they do not talk loosely and deal in generalities that mean nothing, and consequently

what they say is to the point, terse, clear and understood.

By insanity, as I use and understand the term, in connection with crime, and for the purposes of this paper, is that condition of the mind of a person of the age of discretion, which renders him *incapable* of knowing, that the thing done or attempted is a violation of law, and not right; or, if capable of knowing that the act is illegal and wrong, is *incapable* for any reason of refraining from its committal. In either case he is not a *free agent*. I exclude wholly the victims of so-called morbid impulse, emotional or moral insanity, as having no scientific or rational basis. There was no insanity, as I use and understand the term, in the Guiteau, Cole-Hiscock, Sickles-Key and other like cases. The present Sheriff of New York has served his country remarkably well for one subject to paroxysms of emotional insanity! It was not insanity, but the marvelous eloquence of Brady that influenced the jury in that famous case. Nor do I include the large class, as I have written elsewhere—*North American Review*—among whom are found the weak and evil minded, singular, immoral and eccentric people; those badly balanced, of poor judgment, bad memory, the unreasonable and crankish. The world is made up principally of these classes. Some alienists say one-half of the human family is insane. A noted Chicago alienist limits the crazy portion, at three-fourths of the race. Nearly all these three-fourths, should be held responsible for their acts, for they know right from wrong, the legal from the illegal, and have *a fair measure of will power*, which may be quickened by the fear of punishment, disgrace or discomfort to themselves.

I am without doubt, now fully understood, as to whom

I mean when I speak of the insane. Let every writer be equally precise—then we will understand each other.

2. I am not a believer in the popular and professional idea of a blood-thirsty tendency in the insane. The following proposition, I think, embodies the truth, though it may startle some of my hearers.

As a class, the insane are not prone to homicide. They shrink from blood and tremble in the presence of distress of any kind. Not one case of murder in a thousand, perhaps, is by a really insane person. No class of society is so timid in the presence of blood or shrinks from it more instinctively than the insane. In Ohio I have failed to find a case of homicide within the ten or twelve asylums; not having full reports, however, there may be, and probably are such cases. In Massachusetts Dr. Channing says, there have been cases of homicide in the asylums, and doubtless this is true in other States. See his letter attached.

My proposition will not meet ready acceptance, but careful investigation will confirm it. My percentage may be a little too low, as suggested by Dr. Channing. My conclusion, however, has not been reached hastily, but is the result of thought after considerable correspondence with prominent superintendents of insane asylums. I find that homicide seldom occurs in the asylums. The tendency to murder is found in almost every case, outside of these institutions, and the murder is the first evidence of the insanity of the guilty party, according to the popular hypothesis. Probably in nine cases out of ten, the defence of murder in our courts is improperly insanity, the insanity of the defendant never having been before suspected. The homicide itself is the evidence of insanity, which is supported by all kinds of crookedness and curious doings, of uncles,

aunts, cousins, nephews and the like, of all degrees of consanguinity, in the ascending and descending, and collateral family lines.

3. Another popular and professional error exists in the idea that one member of the family having been insane, blood relations are tainted and the malady may break out any where and at any time. So far from this being true, nature goes to work at once, as in other diseases, and brings to bear all her mighty forces and enginery to eradicate the disease, from all who may have the insane tendency. She works here just as faithfully and with the same success, as in repairing a fractured femur or any other injury. This painful error that like a blight hangs over a family forever, in which there may have been sometime, in the old world or in the new, a case of insanity, and the medical profession should correct this false impression. The importance of this subject was first impressed upon me by the fact, that, I think, I saved a man from suicide, by satisfying him, that there never had been a case of insanity in his family, he being under the impression that it had existed in a distant relation, and might develop in himself and family. With this dangerous error corrected, the legal profession would not so systematically and confidently seize upon, the defense of insanity, as a generally successful defense in case of homicide, and the anxiety of members of such unfortunate families, as may have had a case of insanity within their ranks would be greatly relieved. Dread, instead of hope, is constantly present where there has been a case of insanity in a family; resulting from present teaching. It should be taught and impressed, that amid all the ills of life, every person carries in his blood, never sleeping and tireless, the *vis preservatrix* and the *vis vitæ*, powerful living

forces, which are in constant and deadly struggle with disease of all kinds, and which will in the long run be victor with anything like fair play.

Finding I have occupied more time on the preliminary points than I expected, and being unable to abridge or give a synopsis, of the letters from distinguished superintendents, upon the murderous instincts of the insane, some of which I wish to attach; my paper is sufficiently long for an occasion like this. I will continue the article on Epilepsy, in another paper if desirable.

A condensation of the letters would not be fair to the able writers. I do not want to make them responsible for what, some doubtless, will consider my vagaries; except to the extent their letters indicate.

CLEVELAND ASYLUM FOR THE INSANE,
CLEVELAND, O., Feb. 17, 1890.

J. J. ELWELL, ESQ., Cleveland, O.

DEAR GENERAL:—Excuse my delay in answering your letter of Feb. 12.

I appreciate your kind expressions relative to my published views on "Emotional Insanity." The chief factors, according to my observation, which result in the production of Emotional Insanity (so called), followed by homicide, are a vicious life, whiskey, a woman and a revolver. To my mind these imply depravity instead of infirmity.

It is a fact that very few cases of homicide occur in Asylums for the Insane. Very rarely a lunatic, under epileptic furor, or while dominated by certain delusions, may attempt homicide.

It would be quite a relief to me to know when the Medico-Legal Society of New York, will get through trying and acquitting Guiteau. Having the opportunity that I did to observe Guiteau while on trial, it has been a source of amusement as well as disgust to me, to read the views of certain parties who profess to have so much light in regard to his case. In reality it is but a rehash of what an old friend of mine would have designated "moral mush." It is consoling, however, to realize that Justice obtained her rights in his case, and that the law placed him at last, where "no sound can arouse him" to murder "again."

Very truly yours,
J. STRONG,
Superintendent.

P. S.—We have never had a homicide by a lunatic in our asylum.

S.

CINCINNATI SANITARIUM,
COLLEGE HILL, O., Feb. 28, 1890.

J. J. ELWELL, M. D., Cleveland, O.

DEAR SIR:—Yours of 25th at hand. The question you raise is interesting and suggestive.

In twenty-one years of asylum experience, embracing observation of six thousand insane persons resident in asylums, I have never had a homicide, nor an attempt in that direction, with clearly defined homicidal purpose, or "impulse."

Outside of asylum observation, I have known of but three homicides committed by persons that were unquestionably insane. One of these was in accordance with "divine command" (auditory hallucination); one, the madman mistook the victim—a friend—for a hog, while in a state of excitement (hallucination of vision), and the other was in accordance with a delusion of persecution. Two of these homicides died insane, without intermediate mitigation of disease, and the other was executed as a murderer.

I shall be pleased to know your conclusions after fuller investigation,

Yours truly,
O. EVERTS.

RETREAT FOR THE INSANE,
HARTFORD, CONN,
March 1, 1890.

MY DEAR DR. ELWELL:

I beg to acknowledge the reception of your letter of Feb. 26, and to say that I agree, in general, with your proposition, which is that a comparatively small number of the insane exhibit indications of homicidal tendencies.

I think, however, that it would hardly be desirable to specify any special per cent. of them who do not have such tendencies.

I do not think that there exist, so far as I know, statistics enough to warrant a definite conclusion in this respect, and, therefore, would not limit the proposition to the effect that "not one case of homicide in a thousand is by a really insane person."

I conceive that the percentage of such cases would vary very much among the insane in different classes of society, and depend, in some degree, at least, upon previous education and social habits of life. I am, dear sir,

Very truly yours,
H. P. STEARNS.

BROOKLINE, MASS., March 16, 1890.

J. J. ELWELL, ESQ.,
29 Euclid Avenue,
Cleveland, Ohio.

MY DEAR SIR:—Your favor of the 1st inst. came duly to hand.

I am glad to hear that another edition of your book is soon to be published.

I should, to a great extent, indorse your conclusion that "the really

insane do not commit murder, but shrink from blood as a general thing." Much, however, depends on what you mean by the "really insane," and "as a general thing."

Alienists differ very much in their opinion as to what insanity is. Those physicians, for instance, who testified to the sanity of Guiteau would be apt to stretch a point, and regard many insane individuals as not "really insane," and would hold them responsible for homicide.

I should probably, in those cases, find positive evidence of the mental disease, which would, in my opinion, render the individuals *irresponsible.*

I would then modify your proposition and say: "The insane, as a rule, are not homicidal, but an important percentage of them have homicidal tendencies."

As evidence bearing on the point I find that of the 444 persons admitted into the insane asylum at Utica, N. Y., in 1888, 13 had attempted homicide and 43 threatened it. In 1889, 293 persons were admitted into the insane asylum at Buffalo, N. Y., and of these, 17 attempted homicide and 11 threatened it. In 1889, 250 persons were admitted into the insane asylum at Middletown, N. Y., and of these, 8 attempted homicide and 20 threatened it.

As further evidence in the same direction, I may mention that 1,062 persons have been admitted into the State Asylum for Insane Criminals at Auburn, N. Y. 129 of these persons were sent to the asylum directly from the courts, or indirectly, sentence not having been passed on them because of insanity. Of the 129, 55 had committed murder, 1 murder in the second degree, 2 manslaughter, 13 assaults, 8 assaults with intent to kill, 11 arson.

The statistics of the last mentioned asylum are, in part, an answer to the last portion of your conclusion that "not one case of homicide in a thousand is committed by a positively insane person."

We see that in New York, during the last 30 years, 58 murderers have gone to the criminal asylum at Auburn, and it certainly will not do to say that there have been 58,000 murders in New York during this period. Further than this, some of the homicides in New York, who have been acquitted by reason of insanity, are sent to ordinary asylums, so that the above numbers are below, rather than above, the mark.

It is also my opinion, founded on experience with convicted murderers, that it not infrequently happens that insane persons are convicted of murder without the insane condition being discovered.

I should say, therefore, that taking one thousand cases of homicide, an appreciable percentage of them were committed by insane persons.

Homicides have been attempted and committed in this State by insane persons.

From what I have written you will see that my point of view is somewhat different from yours. I can only say that I am careful and conservative in my way of viewing all cases, and have no pre-conceived ideas to influence me.

Yours very truly,

WALTER CHANNING.

Note by the Author:

[In regard to the New York statistics (referred to by Dr. Channing) of "insane criminals," they contain, without doubt, large numbers from the Chicago alienists, three-fourths of the human family whom he pronounces insane. They would never (the most of them) have come out of Dr. Channing's hands, as "insane criminals." He is too conservative for that. The really insane have no motive for common crime, any more than they have a motive for murder. It is the sane who have a motive and object for crime, and it is this class which is crowded into the asylums for "insane criminals." It results from the old and common theory, that where there is a criminal act or a murderous intent the offender is presumed insane, and to be guilty of minor crime is also evidence of some other kind of insanity. They are convicted under the uncertain kind of evidence usually submitted to courts, and called "insane criminals," when they should be treated as responsible for their acts. So the New York statistics have not much weight and from the nature of the cases they are not reliable.]

Note by the Editor:

Mr. Bell invited some prominent alienists to discuss this question when the paper was read and the following letters are appended at the authors' request:—

GREENMONT, June 11, 1890.

CLARK BELL, ESQ.

DEAR SIR:—Your favor of yesterday, regarding Dr. Elwell's paper, is in hand.

I would be glad to hear the paper, but am to attend the Commencement exercises to-night at the Metropolitan Opera House, where my son is to receive his diploma as Doctor in Medicine.

The point as to whether the insane are *per se* homicidal seems to me too broad to admit of an intelligible answer. Some of them are certainly dangerous, either under the influence of insane delusions, of insane impulses, or when in those mental conditions in which self-consciousness seems to be in abeyance, and the patient to act as an automaton; while on the other hand a great majority of the insane are not homicidal, nor liable to do harm to others. Now it is not a question of any practical importance whether the ratio of the danger as to the harmless insane is greater than the ratio of the dangers to the harmless sane population or not. It is of importance to know what insane persons are dangerous and to take proper care of them. Then, again, there are certain of the insane about whose impulses and propensities there is doubt. It is a practical question to find out which these are, and to place them under special supervision, if possible. Since their responsibility is limited by reason of their insanity, and since the State relieves them from punishment for their irresponsible acts, the State has the right to impose restraints which would not be proper if they were fully responsible, and should do so. I am

Yours very truly,

RALPH L. PARSONS.

To CLARK BELL, ESQ., President Medico-Legal Society.

KINGS COUNTY INSANE ASYLUM,
FLATBUSH, L. I., June 15, 1890.

CLARK BELL, ESQ.

DEAR SIR :—

In response to your communication of the 10th inst., regarding Insanity and Homicide, I do *not* think that the insane are *per se* homicidal. I have come in contact with about 5,000 cases in the past seven and a half years, and the percentage of homicidal cases is small; the cases being almost entirely confined to epileptics and melancholiacs with delusions of persecution.

As far as I am able to judge, I think most of the violent cases (so called) are not necessarily homicidal, but intend using only sufficient force or violence to overcome the barriers to escape without depriving attendants or physicians of their lives. In an insane population of 1,152—the present census of this asylum—I can place perhaps only one-half dozen under the heading "homicidal," who have threatened it with the full intention of committing the deed at the first opportunity. We have 80 per cent more women than men, and but *one* woman comes in the category mentioned.

We have frequent acts of violence among both sexes, directed towards fellow-patients and attendants, with resulting bruises and cuts, which, of course, could not be indexed as homicidal.

Trusting that my meagre quota will be of some service to you, and regretting deeply my inability to hear the paper you mention, I am

Yours very truly,

WALTER S. FLEMING.

Superintendent.

TRANSACTIONS.

MEDICO-LEGAL SOCIETY.—APRIL MEETING.

PRESIDENCY OF CLARK BELL, ESQ.

April 9, 1890. Hotel Buckingham. President CLARK BELL, ESQ., in the Chair.—The Minutes of the March meeting were read and approved.

The following members were elected, on recommendation of the Executive Committee, proposed by President BELL.

ACTIVE.

Dr. M. J. White, Superintendent Milwaukee Insane Asylum, Wauwatosa, Wis.; Dr. H. O. Jewett, Cortland, N. Y.; Willard C. Humphreys, Esq., M. D., 71 Columbia Heights, Brooklyn; Dr. George F. Keene, Superintendent State Lunatic Asylum, Howard, R. I.; Appleton Morgan, Esq., 23 Park Row; Dr. F. T. Payne, Comanche, Texas, proposed by Dr. Dorset.

CORRESPONDING.

Dr. José I. Toralbas, Secretary Academy of Medicine and Sciences, Havana, Cuba; Dr. Nicolas I. Gutierrez, President Royal Academy of Medicine and Sciences, Havana, Cuba; Dr. Josê Mª. Carbonell, Senator and President of Collegeò Abogadao, Havana, Cuba; Dr. Venancèo Zorilla, President Supreme Court of Cuba, Havana, Cuba; Ldo. Antonio Govin, Advocate, Havana, Cuba; Ldo. Pedro Gonzales Llorente, Advocate, Havana, Cuba; Dr. Leópold Berrièl Y. Fernandez, Advocate and jurist, Havana, Cuba; Dr. Francisco de los S. Guzman, Statesman and Jurist, Havana, Cuba; Prof. Dr.

August Forel, Zurich, Switzerland; Prof. Dr. K. von Lilieenthal, Zurich, Switzerland; Prof. Dr. Carl Stoos, Oberrichter, Berne, Switzerland; Gustave Correvon, President Tribunal of Canton, Lausanne, Switzerland; Fr. Meilli, Prof. of Law, Zurich, Switzerland; Prof. Alfred Gautier, of Geneva, Switzerland; Judge Emil Zurcher, Zurich, Switzerland; Prof. X. Gretener, of Berne, Switzerland; Dr. Vicente de la Guardia, Calla de Cubado 44, Havana, Cuba.

Monsieur Barbier, Honorary President of the Court of Cassation of France, was, on the motion of President BELL, approved by the Executive Committee, elected an Honorary member of the Society.

The paper of GEO. B. MILLER M. D., of Philadelphia, "Osmoses of Strychnia through Organic Tissues," was read.

The reading of the paper by CLARK BELL, ESQ., on "Electricity in its Medico-Legal Relations," was read.

The Chair announced the Standing Committees for the year 1890 which, he stated, would appear in the March No. of JOURNAL, (that had been delayed), which the Secretary was directed to send to the several Committes.

The meeting adjourned.

EMILY KEMPIN, Secretary.

MAY MEETING.

PRESIDENCY OF CLARK BELL, ESQ.

May 13, 1890. Hotel Buckingham—President CLARK BELL in the Chair, and in the absence of the Secretary Mr. Ellinger acted as Secretary.

The minutes of April session were read and approved.

The following candidates, recommended by the Executive committee, proposed by President Bell were duly elected:

ACTIVE MEMBERS.

Hon. W. L. Burnap, Prof. of Medical Jurisprudence, Burlington, Vt.; Dr. J. N. Love, Editor Medical Mirror, 301 N. Grand Ave., St. Louis, Mo.; Frank P. Norbury, M. D., Asst. Physician Ill. Central Hosp. for Ins., Jacksonville, Ill.; H. B. Hill, M. D., Asst. Supt. Maine Hospital for Insane, Augusta, Maine.

CORRESPONDING MEMBERS.

Dr. Thiey, Prof. Criminal Law, Liege, Belgium; Dr. J. G. Patijn, Advocaat Generaal Hoogen Raad, s'Gravenhage, Holland; J. G. C. P. Vrythoff, Dordrecht, Holland; Prof. G. A. Van Hamel, Treasurer International Union on Criminal Law, Amsterdam, Holland; Dr. Picot, Judge Criminal Court, Geneva, Switzerland; Georges Favey, Prof. of Criminal Law, Lausanne, Switzerland; Dr. Antonio Henrigues de Silva, Professor of Penal Law University of Coimbra, Portugal; Hon. J. J. Tavario de Medeiros, Counsellor and member of the Committee of Legislation, 81 Rua Nova de Almada, Lisbon, Portugal; Hon. M. A. Wulfert, Prof. Penal Law, Moscow, Russia; Prof. Dr. C. Goos, Norregade 10, Copenhagen, Denmark; Hon. Pierre Ivan Dautschoff, Procureur General, Sofia, Bulgaria; Hon. Geo. Zgoueroff, Substitute for Procureur General, Sofia, Bulgaria; Judge Alexander DJakovitch, President of the Tribunal, Varna, Bulgaria; A. Grotenfelt, Director of Gefangnisse, Helsingfors, Finland; Barone Garofalo, President of the Tribunal Naples, Largo-Garofalo, No. 29; Dr. Fernando Puglia, Professor of Penal Law, Messina, Sicily; Her. Erster Schwarz, Staatsanwalt, Aurich, Germany; Dr. Jur. Joh. Berg, Advocate, Christiana, Norway; Dr. Jur. Harold Smedal, Advocate, Kongens Gade 25, Christiana, Norway; Dr. A. O. Winroth, Professor of Law, Lund, Sweden; Dr.

A. E. W. Upperstrom, Haradshofding, Floragatan 10, Stockholm, Sweden; Geo. A. Nenadovitch, Advocate Editor in Chief of "Branic," Belgrade, Servia; Hon. Panta J. Savitch, Department of Justice, Belgrade, Servia; Dr. Jerominio Vida, Professor of the University of Grenada, Spain; Dr. Hugo Beck, Advocate, V. Dorotheagasse 6, Budapest, Hungary; Emerich V. Havas, Staatsanwalt, Fortunagesse 4, Budapest, Hungary.

Dr. W. P. Spratling, Assistant Physician at Morris Plains Asylum, N. J., read a paper on "The Treatment of the Acutely Insane in General Hospitals," at the close of which he offered the following Resolution:

Resolved, That in the opinion of the Medico Legal Society it would be more in accord with the scientific care and treatment of the Insane to designate all state and private institutions as "Hospitals" and eliminate so far as possible the word "Asylum" from the receptacles for the Insane.

Which was on motion referred to the Standing Committee on Legislation.

Mrs. Sophie McClelland read a paper, entitled: "Heredity-Criminality *vs.* Education," a reply to the paper read by Dr. H. S. Drayton.

The regular order of business was then taken up, being a discussion upon the New York Assembly Bill upon the abolition of capital punishment for crime.

The subject was discussed by Dr. Ralph L. Parsons, Dr. Philip E. Donlin, Dr. Tuttle, Dr. W. P. Spratling, Mr. Moritz Ellinger, Judge John F. Dillon, Wilson MacDonald, Esq. and the President.

The Chair made an address upon the life and public character of three of the active members and a corresponding member who had died since last meeting.

Ex-President Thomas C. Finnell, Daniel L. Gibbens,

Esq., Dr. E. J. Kilbourne of Elgin, Ill., and Prof. Max Leidesdorf of Vienna.

Remarks were made on Dr. Finnell by Dr. E. Donlin, and upon Daniel L. Gibbens by T. C. Crain, Esq., of the New York Bar, New York City Chamberlain.

It was moved and carried that the Chair name a committee to prepare suitable recognition and memorials of the deceased. The Chair named as such a committee Dr. P. E. Donlin, Mr. Rapple W. Pope and M. Ellinger.

The Chair announced that the action of the Society, in regard to a Chair of Medical Jurisprudence in American Colleges, and the announcement of prize essays, had been forwarded to all the Medical Colleges of the United States, and would shortly be forwarded to all the other Colleges, Law Schools and Bar Associations.

The Chair submitted the Circular received from Prof. James of Harvard, regarding Psychical Research, which was referred to the Standing Committee on Hypnotism.

The Chair called attention to the International Union on Penal Law that was announced to meet in Berne in August and other Societies and Congresses abroad.

On motion the President was authorized to appoint delegates to represent this body at all meetings of Societies and Congresses the coming Summer.

The circular letter regarding the International Medico-Legal Congress of 1892 in the English, French, German and Spanish tongues, was submitted to the meeting and approved.

On motion the Society adjourned.

M. Ellinger,

Acting Secretary.

JUNE MEETING, 1890.

PRESIDENCY OF CLARK BELL, ESQ.

Medico-Legal Society met at Buckingham Hotel—President CLARK BELL, ESQ., in the Chair.

The minutes of the May meeting were read and approved.

The following members proposed by President Bell were duly elected :

ACTIVE MEMBERS.

E. H. Hotchkiss, Esq., 272 Mercer St., city ; Amos C. Lewis, M. D., (Skin and Cancer Hospital,) Fordham Heights ; Edward Pierce, M. D., 243 E. 34th St., city ; Dr. D. Young, Supt. Insane Asylum, Selkirk, Manitoba ; Robert Newman, M. D., 68 W. 36th St., city ; Judge A. Alinge, Oberkotzau, Hof Saxony, Germany ; James H. McBride, M. D., Supt. Mil. Sanitarium, Wauwatosa, Wis., and the following proposed by Dr. D. R. Wallace; Dr. R. B. Dupre, Martin, Texas ; Hon. Geo. W. Taylor, Belton, Texas ; Dr. J. T. Wilson, Austin, Texas ; Dr. R. M. Suearingen of Austin, Texas ; Hon. Seth Shepard of Austin, Texas.

CORRESPONDING MEMBERS.

Tonza Kawa Moto, M. D., care Japanese Legation, Berlin ; Wm. C. Blane, M. D., 17 Rue de Naples, Brussels ; Editor Dr., A. O. H. Tellegen, Amsterdam, Holland ; Editor Dr. J. van Deventer, Amsterdam, Holland; Editor Dr. G. Jelgersma, Amsterdam, Holland ; I. D. Fransen van de Putte, Minister of the Colonies, s'Gravenhage, Holland ; Mr. P. E. Hubrecht, Secretary-General, s'Gravenhage, Holland ; Dr. A. H. van Andel, Leiden, Holland ; Professor Dr. A. Hertz, Amsterdam University, Holland ; Prof. Dr. C. N. Kuhn, Amsterdam University, Holland ; Dr. S. Doedes Breuning, Alienist, Medemblik,

Holland ; Dr. S. J. Halbertsma, Alienist, Rotterdam, Holland ; Dr. G. J. C. J. Schouten, Alienist, Voorburg te Vucht, Holland ; Kanchiro Takaki, F. R. C. S., Eng., Director-General of the Med. Dept. of H. I. M. Navy, Tokio, Japan ; Dr. Kensai Ikeda, Physician to H. I. M., the Emperor, Tokio, Japan ; Tsunatsune Hashimoto, Medical Director-General, H. I. M.'s Army, Tokio, Japan ; Dr. Guglielmo Canterano, Naples, Italy ; Dr. G. Andriani, Clinica Psichiatrica, Naples, Italy ; Dr. R. Collella, Assistant Psichiatric Institute, Naples, Italy.

In the absence of the author, Professor J. J. Ellwell, of Cleveland, the first part of his paper on "Epilepsy as a Defense for Crime" was read, containing letters from John P. Stearns, M. D., Supt. Hartford Retreat ; Dr. Orpheus Everts, Supt. Sanitarium, College Hill, Ohio ; Dr. J. Strong, Supt. Insane Asylum, Cleveland, Ohio, and Walter Channing, M. D., Supt. Asylum of Brooklyne, Mass.

The second part of the paper is to follow. This paper was discussed by Sophie McClelland, Dr. Tuttle and the President.

The paper of Prof. Church, of Chicago, was then read, entitled "The Proper Disposition of Insane Criminals."

The President announced the death Dr. John S. Butler, of Hartford, Conn., and paid a tribute to his long and useful life.

Five of the recent groups of portraits of distinguished members of the Society and of the International Medico-Legal Congress were exhibited at the session.

The society adjourned for the summer vacation.

W. L. Baner, M. D.,
Assistant Secretary.

EDITORIAL.

THE GOVERNMENT AND THE INTERNATIONAL MEDICO-LEGAL CONGRESS OF 1890.

We give the correspondence, between the President of the International Medico-Legal Congress and Secretary Blaine, which gives assurance of the sympathy of the Government of the United States with the proposed International Medico-Legal Congress of 1892.

Office of the President of the Medico-Legal Society of New York, No. 57 Broadway, N. Y., March 31st., 1890.

Hon. James G. Blaine, Secretary of State, Washington, D. C.

DEAR SIR.—I have the honor to enclose a circular we are sending in the English, French, German and Spanish languages, to the various countries of the world, asking co-operation with the International Medico-Legal Congress, which will be held in 1892 in this country.

Its first session was held in June 1889, of which I send the preliminary transactions and roll of delegates.

The French circular enclosed shows the officers at this moment, and as Vice-Presidents for the various countries are announced, they will be added to those already appointed. Inspection of the names of the eminent men, who have already lent their names to this project, emboldens me to request the countenance of the American Government, to this movement in aid of this science.

Among foreign peoples, the knowledge of the approval of the Home Government, is of vast consequence to the success of scientific endeavor.

The aid, lent by the French Government, to the Scientific Congresses in Paris last year, gave an enormous impetus and importance, to that wonderful success, which added new lustre to the glory of France.

We do not desire any pecuniary assistance, from the Government of the United States.

The letters you so kindly sent me last summer were of enormous value to me, in interesting eminent men of science, in the countries of Europe in the movement.

Such a letter of sympathy, with the objects and purposes of our present endeavor, as you can give, will I think be of great value, and will in many countries, especially the Spanish speaking countries on this continent, be of commanding importance.

I am, sir. with high personal regard,

Very faithfully yours,

CLARK BELL.

Department of State, Washington,
April 17, 1890.

Clark Bell, Esq., President of the Medico-Legal Society, No. 57 Broadway, New York City.

DEAR SIR.—I have received your letter of the 31st. ultimo, enclosing copies of circulars which you are sending to the various countries of the world, inviting co-operation for the Congress, which will be convened in 1892 in the United States, for the discussion of medical jurisprudence.

The importance of such a gathering as you propose cannot, it would seem, be overestimated. The intelligent discussion of scientific questions, especially those which so closely affect the human family, by a body of gentlemen learned in medico-legal science, must prove of especial value, and should be worthy of every effort, which has for its mission the amelioration of the condition of mankind.

My individual sympathy in the objects and purposes of your conference is very great, and I trust that the results of such a meeting as you propose may correspond, to the aims you have in view, as I have no doubt they will.

I am, dear sir, very truly yours,

JAMES G. BLAINE.

MEDICAL JURISPRUDENCE IN THE LAW AND MEDICAL SCHOOLS.

The action of the June International Medico-Legal Congress, of 1889, and of the Medico-Legal Society, on this question, upon the resolutions submitted by President Bell, Prof. Luther Tucker Clark and Prof. John J. Reese, was as follows:

"*Resolved*, That the action of the International Congress of Medical Jurisprudence, upon the propriety and necessity of a Chair of Forensic Medicine in the Law and Medical Schools of this Country be approved, and that the Secretary communicate that action and this approval, to the Faculty of the Law and Medical Schools of this Country, and to all Colleges or Universities, where Law and Medicine are taught, as well as to the State and National Medical Societies and Bar Associations of the United States and the Canadas."

The Resolutions of the American International Congress of Medical Jurisprudence were as follows:

"*Resolved*, That in the opinion of this Medico-Legal Congress, not only should the subject of Medical Jurisprudence be recognized, in the various institutions of learning, but in the Medical and Law Schools of this Country; that such schools should include such a course in their curriculum of studies, and that examination on this subject be made necessary for graduation in either medicine or law.

"*Resolved*, That it would add to the interest, dignity and benefit of the Legal and Medical professions, if every National and State Medical Society, and every National and State Bar Association, in the United States should appoint a Standing Committee upon Medical Jurisprudence."

The Medico-Legal Society has sent a copy of this action to all the Law and Medical Schools in this country, and to the Colleges where Law and Medicine are taught, and desires also to bring them to the attention of the State and National Medical Societies, and to the Associations of the Bar, both State and National. We ask the favor of the Press in furthering the object of the Society in its efforts in this field.

THE PROGRESS OF FORENSIC MEDICINE.

1. The work of the Medico-Legal Society is by far the more important in extending the Membership of the Society in the American States and in foreign countries, which is evinced by the increasing lists of admissions both upon the active list of members as also the corresponding.

2. The meeting of the International Union of Criminal Law, to be held at Berne, Switzerland, August 12th to 14th next will greatly interest both professions throughout the world.

3. The increasing interest in the scientific and lay press in the interesting questions of the science. The New York *Sun*, *Herald* and *Morning Journal* devote no little space to the problems of Hypnotism.

The *Mail and Express* is giving attention to the proplems of Insanity and its increase, and throughout the whole American press, we observe an awakening and increasing interest, in the question of Electricity, and the various questions, germane to the study of Medical Jurisprudence.

PRIZE ESSAYS.

The Society offers a prize of $100 for the first and $50 for the second best essay, upon any subject within the

domain of Medical Jurisprudence, which is open to April 1, 1891.

The award of the Clark Bell prize of 1889 has not yet been made.

The following Committee of award has been named, who are now considering the essays:

Judge L. A. Emery, of Maine, Chairman; Dr. W. W. Godding, of Washington, D. C.; Senator C. K. Davis, of Minn.; Judge Elisha Carpenter, of Conn.; Dr. David W. Yandell, of Ky.; Prof. V. C. Vaughan, of Mich.; M. Louise Thomas, of N. Y., Secretary.

Vice-Chancellor Green, of N. J., and Prof. John Elwell, of Ohio, appointed upon the Committee, have been compelled to decline by reason of pressure of public duties, and these vacancies have been filled with the names of Dr. D. R. Wallace of Terrell, Texas, and Judge A. L. Palmer of New Brunswick.

PORTRAITS.

The MEDICO-LEGAL JOURNAL is publishing a series of groups, of eminent judicial, legal, medical and scientific men of a size suitable for framing.

The last issued, is a group of the Chief Justices of the Supreme Court of the New England and Middle States, to which are added those of New Brunswick and of Louisiana. It is a memento of the banquet given by the Saturday Night Club to the Supreme Court of Connecticut, April, 1890.

The last group of the series issued, was one of eminent medical men and superintendents of asylums for the insane—containing twelve heads.

The last group of legal and judicial heads, contained the portraits of Judge Stanley Matthews, of the Supreme Court of the United States; ex-Judge John F. Dillon,

Judges Calvin E. Pratt, Elisha Carpenter, H. M. Somerville, A. L. Palmer, A. L. Emery, of the Supreme Courts of the several states and New Brunswick; Prof. Elwell, of Ohio; Judge Normile, of Mo., Chief Justice McAdam, of the City Court of New York.; Theo. Tyndale, of the Boston Bar, and the President of the Medico-Legal Society.

About ten groups have already been published. Groups of eminent men from foreign countries will also be published, and at the price of $1 each, but for $5 ten of these, will be furnished to any single subscriber, which may be selected from any group appearing. Address MEDICO-LEGAL JOURNAL, 57 Broadway, N. Y.

THE GROWTH OF THE MEDICO-LEGAL SOCIETY.

In the year 1889 there were elected 311 members of the Medico-Legal Society; 104 active, 204 corresponding and 3 honorary.

In the first half of 1890, since January 1, there have been elected 117 members, 40 active 76 corresponding and one honorary.

The labor thrown upon the President, regarding the Congress of 1892, has interfered with the proper steps of calling attention to extending the active membership, especially in the American States and the Canadas.

This should now be taken up, and, the members of the Society can and should assist in this matter, as well as the members of the committe for extending membership in the several states and countries.

The following circular letter has been prepared, which can be obtained, by addressing the President, which members are requested to circulate, among eminent men in both professions likely to take an interest in the work.

Copies will be sent to chairmen of committees and others, who are requested co-operate.

The circular is as follows:

MEDICO-LEGAL SOCIETY, 57 BROADWAY.
OFFICE OF THE PRESIDENT,
NEW YORK, June, 1890.

MY DEAR SIR:

It is proposed to nationalize the Medico-Legal Society by extending its active membership into each State and Territory of the Union, where members do not now reside, to the Canadian Provinces and into Foreign Countries, and to elect at least ten names in each.

We have at present members in all the States except three, and in all the Territories except four, and steps will at once be taken to address distinguished and representative men in those States and Territories.

We wish to be in more intimate relation with those men, in each State who take an interest in Medical Jurisprudence, and we shall ask judges, scientists and prominent men in both professions, in each of the States, the Territories, the Canadas, and in foreign lands to unite, with a view of placing the Science upon a higher and more important basis, even international in character and usefulness, which if successful, cannot fail to be of the greatest possible advantage, and add to the dignity and knowledge of both professions in America, and we hope in the world.

The plan proposed is—

First—To reduce our annual dues to members residing outside of the State of New York to $2.00 per annum. Initiation fee, $5.00.

Second—We shall send the JOURNAL free to active members, the subscription price of which alone is $3.00 per annum.

Third—We now vote by mail (by ballot) at our annual elections, and the presence of members at meetings is not indispensable. The JOURNAL contains full accounts of our transactions, the papers read, and the general progress of the science.

Fourth—We propose to elect a Vice-President of the Society from each State, Territory, Province and Foreign Country, and to ask members from each to report all cases of interest to the Editor, or the President of the Society, with a view of bringing the study of the science and of all questions arising, at once to the attention of the Society. This plan has met the approval of distinguished men in various sections of the Union. Judge Somerville, of the Supreme Court of Alabama, and Dr. P. Bryce, Superintendent of the State Lunatic Asylum at Tuscaloosa, will lead the movement in that State, and have consented to favor it actively in the Southeastern States. Chief Justice Bermudez, Dr. Joseph Jones and eminent men of both professions in Louisiana, likewise.

Governor Robert S. Green and Judge C. G. Garrison, of New Jersey, will lead in that State. Professor J. J. Elwell, Rev. Wm. Tucker, of Mt.

Gilead, C. H. Blackburn, of Cincinnati, in Ohio; Dr. McClelland, of Chicago, Dr. Horace Wardner, Superintendent at Anna, Dr. D. W. Aldrich, Mayor of Galesburgh, and friends in Chicago, will lead in Illinois; Chief Justice Sir John C. Allen and Judge A. L. Palmer, of the Supreme Court, will aid in New Brunswick; Judge Peeters, of the Supreme Court of Prince Edward's Island, Dr. H. B. Hill, of the Maine State Hospital, and Judge L. A. Emery will lead in that State; Prof. W. L. Burnap and Dr. J. Draper, for Vermont; Dr. Thomas O. Powell, of State Asylum, Milledgeville, in Georgia; Dr. D. W. Yandell and Dr. H. K. Pusey, in Kentucky; S. Hepburn, Jr., of Carlisle, ex-Governor Hoyt, of Philadelphia, Dr. George B. Miller, in Pennsylvania; Dr. W. B. Fletcher, Dr. C. G. Wright, in Indiana; Dr. Jennie McCowen, of Davenport, Dr. Gershom B. Hill, Dr. F. E. Crittenden, in Iowa; William M. Taylor, Vice-President of the Connecticut Mutual Life Insurance Company, and Dr. Gieb, of Stamford and Dr. W. B. Lewis, of Hartford, will lead in Connecticut; Judge J. C. Normile, of the Criminal Court in St. Louis, Dr. R. Smith, St. Joseph Asylum, and Dr. R. E. Young, Superintendent of the State Asylum at Nevada, will lead in Missouri, aided by distinguished members of both professions; Dr. Middleton Michel, of Charleston, S. C., in that State; Dr. T. R. Buckham and Professor V. C. Vaughan, in Michigan; Dr. Ed. Cowles, Dr. Frank K. Paddock, in Massachusetts, while prominent gentlemen in various other States have consented to aid the movement.

I enclose a list of leading representative alienists of the Union, with some of the leading officials who have united recently under the proposed plan:

SUPERINTENDENTS OF ASYLUMS.

Archibald, Dr. O. Wellington, Jamestown, Dakota.
Bartlett, Dr. C. K., St. Peter, Minn.
Bishop, S., M. D., Supt. Nevada Asylum, Reno, Nevada.
Bond, G. F. M., M. D., late Supt. New York City.
Bryce, Dr. P., Tuscaloosa, Ala.
Buckmaster, Dr. S. B., Mendota, Wis.
Burrell, Dr. E. R., Canandaigua, N. Y.
*Butler, John S., M. D., Hartford, Conn.
Callendar, Jno. H., Supt. Central House for the Insane, Nashville, Tenn.
Campbell, Dr Michael, Knoxville, Tennessee.
Clarke, Dr. F. H., Lexington, Ky.
Clark, Dan'l, Supt., Toronto, Can.
Cook, F., M. D., Supt. Oxford Retreat, Oxford, Ohio.
Dent, Dr. Emmet C., Blackwell's Island, New York.
Dorsett, Dr. J. S., Austin, Texas.
Draper, Dr. J., Brattleboro, Vt.
Godding, Dr. W. W., Washington, D. C.
Grissom, Dr. E., Raleigh, N. C.
Harris, S. H., M. D., Morris Plains, N. J.
Hay, C. M., M. D., Asst., Morris plains, N. J.
Hill, H. B., M. D., Augusta, Maine.
Jones, Dr. S. Preston, Merchantville, New Jersey.
Kellogg, Dr. T. H., Insane Asylum, Poughkeepsie, N. Y.

Squire, Watson C., Senator of Washington.
Tallafierro, Hon., of Ala.
Taylor, John M., Vice-President of Connecticut Mutual Life Insurance Company.
Tompkins, Hon. H. C., Alabama.
Vaughan, Prof., of Ann Arbor, Mich.
Wolff, Dr. Arthur S., Texas.

The following is the Committee on extending Membership of the Society:

COMMITTEE OF THE STATES AND TERRITORIES ON EXTENDING MEMBERSHIP OF THE SOCIETY.

ALABAMA.—P. Bryce, M. D., Tuscaloosa.
ARKANSAS.—Jas. H. Southall, Osceola, Little Rock.
CALIFORNIA.—E. Regensberger, M. D., San Francisco.
CANADA. — Dr. Daniel Clark, Toronto.
COLORADO.—Prof. T. P. Eskridge, Denver.
CONNECTICUT.—Wm. J. Lewis, M. D., Hartford.
CUBA. Dr. C. M. Fernandez, Havana.
DAKOTA.—Dr. O. Wellington Archibald, Jamestown.
DELAWARE.—Gov. B. T. Biggs, Dover.
DISTRICT OF COLUMBIA.—Judge M. V. Montgomery, Washington.
ENGLAND.—A. Wood Renton, Esq., London.
FLORIDA—Dr. C. A. F. Lindorme, Fort Reed.
GEORGIA.—Thos. O. Powell, M.D., Milledgeville.
ILLINOIS.—Milo A. McClelland, M. D., Chicago.
INDIANA.—W. B. Fletcher, M. D., Indianapolis.
IOWA.—F. C. Crittenden, M. D., Des Moines.
IRELAND. — Connelly, Norman, M. D., Dublin.
KANSAS.—A. N. Drake, M. D.
KENTUCKY.—Dr. F. H. Clark, Lexington.
LOUISIANA.—Dr. M. D. Clay, Shrevesport.
MAINE.—H. B. Hill, M. D.
MANITOBA.—H. Aubrey Husband, M. D.
MARYLAND.—Daniel L. Brinton, Esq., Baltimore.
MASSACHUSETTS.—Frank K. Paddock, M. D., Esq., Pittsfield.
MICHIGAN.—T. R. Buckham, M. D., Flint.
MINNESOTA.—Prof. W. A. Hall, Minneapolis.
MISSOURI.—R. E. Smith, M. D., St. Joseph.
MISSISSIPPI.—Dr. E. P. Sale, Aberdeen.
NEBRASKA.—W. M. Knapp, M.D., Lincoln.
NEVADA.—S. Bishop, M. D., Reno.
NEW BRUNSWICK.—J. T. Steeves, M. D., Fredericton.
NEW HAMPSHIRE.—Dr. Carl H. Horsch.
NEW JERSEY.—Judge C. G. Garrison, Camden.
NEW MEXICO.—N. S. Giberson, M. D., Carlisle, Grant Co.
NEW YORK.—Clark Bell, Esq., Chairman, New York.
NEW ZEALAND.—Prof. Millen Coughtrey, Dunedin.
NORTH CAROLINA.—J. D. Roberts, M. D., Goldsboro.
NOVA SCOTIA.—Simon Fitch, M.D. Halifax.
OHIO.—C. H. Blackburn, Esq., Cincinnati.
PENNSYLVANIA.—S. Hepburn, Jr., Esq., Carlisle.
PRINCE EDWARD ISLAND.—Judge Jas. H. Peters, Charlotte Town.
RHODE ISLAND.—Philip K. Taylor, M. D., Wakefield.
SOUTH CAROLINA.—Dr. Middleton Michel, Charleston.

*Kilbourne, Dr. E. J., Elgin, Ill.
Kinkead, R. J., Galway, Ireland.
Knapp, Dr. Wm. M., of Nebraska.
MacFarlane, Dr. W. W., California.
McBride, James H., Supt. Milwaukee Sanitarium, Wanwatosa, Wis.
Miller, J. F., M. D., Goldsboro, N. C.
Moncure, Dr. J. D, Williamsburgh, Virginia.
Morgan, E., Jr., Tarrytown, N. Y.
Perkins, Dr. L. G., of Jackson, La.
Peterson, Dr. Fred., late Asst. Physician., New York.
Phillips, J. W., M. D., Supt. Burn Brae, Pa.
Powell, Thos. O., M. D., Milledgeville, Georgia.
Pusey, Dr. H. K., Kentucky.
Rice, Dr. C. A., Meridian, Miss.
Richardson, A. B., Supt. Athens Asylum for Insane, Athens, Ohio.
Smith, R. E., Supt. Lunatic Asylum, St. Joseph, Mo.
Spratling, W. B., Asst., Morris Plains, N. J.
Twitchell, Dr. G. B., Keene, N. H.
Wallace, Dr. D. R., Terrell, Texas.
Ward, Dr. J. M., Trenton, N. J.
Wardner, Dr. H., Anna, Ill.
Wardner, Horace, M. D., Supt. Ill. State Insane Asylum, Anna, Ill.
Waughoff, Jno. W., M. D., Supt. Insane Asylum, Fort Stellacoom, Wash.
Whitehorn, Dr. Ed. E., Batavia, Ill.
Williamson, A. P., M. D., Supt. Minn. House for Insane, Otter Tail, Minn.
Wright, Dr. C. C., Supt., Indianapolis, Ind.
Young, Dr. D., Insane Asylum Selkirk, Manitoba.
Young, Dr. R. E., Nevada, Mo.
Newington, Dr. Hayes, Supt. Asylum, Ticehurst, England.
Nicholson, Dan'l, Supt. Broadmoor Asylum, England.
Orange, Wm., late Supt. Broadmoor Asylum, England.
Strahan, S. A. K., M. D., Northampton, England.
Norman, Connolly, M. D., Dublin, Ireland.

The following are some of the leading Officials and Scientists who have recently united:

Aldrich, Dr. D. W., Mayor of Galesburgh, Illinois.
Baker, Dr. Henry B., Secretary State Board of Health, Michigan.
Barnard, Hon. Daniel, Attorney-General of New Hampshire.
Biggs, Gov. B. T., of Delaware.
Boardman, Prof. C. H., State University of Minnesota.
Brinton, Daniel L., Esq., Baltimore.
Broadhead, Jas. O., St. Louis.
Burnap, Prof. W. L., Maine.
Coughtrey, Prof. Millen, Dunedin, New Zealand.
Doering E. J., M. D., Chicago, Ill.
Eskridge, Prof. J. T., Denver, Colorado.
Formad, Prof. of Phila.
Green, Governor R. S., New Jersey.
Halsey, Hon. Geo. A., Newark, N. J.
Hirschfelder, Prof. J. O., of California.
Howard, Frank H., Esq., Los Angeles, California.
Hoyt, Ex-Governor, of Pennsylvania.
James, Prof. Frank L., St. Louis *Medical Journal*.
Ogston, Prof., Dunedin, New Zealand.
Palmer, Dr. H., Surgeon General, Wisconsin.
Poole, T. Crisp, Brisbane Queensland, Australia.
Robinson, Hon. Henry, Concord, New Hampshire.
Rutherford, Dr. R., Health Officer, Texas.
Sale, Dr. E. P, President Mississippi State Board of Health.

TENNESSEE.—Dr. Michael Campbell, Knoxville.
TEXAS.—Dr. D. R. Wallace, Terrell.
VERMONT.—Dr. J. Draper, Brattleboro.
VIRGINIA.—Dr. Jas. D. Moncure. Williamsburg.
WASHINGTON TER.—John W. Wagup, M. D., Fort Stellacoom.
WEST VIRGINIA.—
WISCONSIN.—Henry Palmer, M.D. Janesville.

As this movement will be addressed largely to the judiciary as well as the legal side, it may be proper to mention the following judges and ex-judges in this State who are now members of this body:

Chief Justice Jno. C. Allen and Judge A. L. Palmer of Frederickton, N. B.; Judge Barbier, Premier President Cour de Cassation, Paris, France; Judge S. M. Ehrlich, New York City; Judge Elisha Carpenter, Conn.; Judge L. A. Emery, Ellsworth, Maine; Hon. David Dudley Field, New York City; Judge H. M. Goldfogle, New York City; Judge A. A. Gumby, Monroe, La.; Judge W. S. Ladd, Lancaster, N. H.; Judge M. W. Montgomery, Supreme Court, Washington, D. C.; Judge J. C. Normille, Criminal Court, St. Louis, Mo.; Judge W. H. Francis of Dakota; Judge Gustave Cook of Texas; Judge Locke E. Houston of Miss.; ex-Chief Justice L. Bradford Prince, New Mexico; Judge Geo. H. Sanders of Arkansas; Judge R. W. Westbrook of Phila.; Hon. H. M. Somerville, Justice Supreme Court, Montgomery, Ala.; Judge Peeters of Prince Edward Island.

Ex-Chief Justice Noah Davis, ex-Judge Richard W. Busteed, ex-Surrogate D. C. Calvin, ex-Judge John F. Dillon, ex-Judge A. J. Dittenhoefer, ex-Judge Charles Donohue, District Attorney John R. Fellows, ex-Judge S. Burdett Hyatt, ex-Judge M. S. Isaacs, Judge George L. Ingraham, ex-Judge J. H. McCarthy, Chief Justice David McAdam, ex-Judge Marcus Otterburg, Judge Calvin E. Pratt, Chief Justice Sedgwick and ex-Judge G. M. Speir.

Your name has been handed me with a request that I write you and ask you to lend your name to the movement in your State or country.

If this meets your approval, sign enclosed consent and I will propose your name for membership.

I will thank you to send me the names and addresses of such leading men of both professions, in your State and States adjoining your own, as you think will be likely to unite with this body in the proposed movement, and the name of such a person as you would recommend for the Vice-President for your State Province or County.

I remain, sir, with great respect,

Very faithfully yours,

Clark Bell.

Personal.

Hon. David Dudley Field, Clark Bell, Esq., Mr. Roger Foster, Dr. Ferd. C. Valentine, Dr. J. Mount Bleyer and Emily Kempin, LL. D., have been named as delegates from the Medico-Legal Society to the International Union of Criminal Law, to be held at Berne, Switzerland, Aug. 12 and 14, 1890.

Dr. J. Mount Bleyer, Dr. Robert Newman have been named as delegates to the International Medical Congress at Berlin from the N. Y. Medico-Legal Society, as well to the International Congress on Cremation to be held at Berlin.

The members of the Committee on Hypnotism are requested to conduct their labors as individuals in their several locations with the aid of such scientific men as co-operate in each locality and to report to the Chairman of that committee, E. Morgan, Jr., Riverside Sanitarium, Tarrytown, N. Y., or the President of the Society.

N. C. METLER, ESQ., Public Prosecutor for Bengal, in India, has united with the Society, and will act as Vice-President of the Society for that Province.

GOV. L. BRADFORD PRINCE, of New Mexico, formerly Chief Justice of the Territory, will act as Vice-President for that Territory.

Hon. Jas. H. Peters, Justice of the Supreme Court of Prince Edward Island, has united with the Society, and will act as our representative in that Province.

Hon. Hannibal Price, Minister Resident at Washington, for Hayti, Señor J. M. P. Cammano, Minister Resident at Washington, for Ecuador, Señor F. C. C. Zegarra, Peruvian Minister at Washington, D. C., Señor Rafael Montufar, for Guatemala, Señor N. Baler Perazo, Minister for Venezuela, Dr. Vincent de la Guardia, for

Cuba, are among those who have accepted the position of Vice-President for South American countries in the International Medico-Legal Congress of 1892.

AMERICAN MEDICAL ASSOCIATION.

There was a section on Medical Jurisprudence at the annual meeting held at Nashville, May 23, *et seq.*, and some twenty-four papers on various Medico-Legal topics were contributed by eminent writers in various sections of the Union. Dr. T. D. Crothers, of Hartford, was Secretary of this section.

Journals and Books.

ARCHIVES DE L'ANTHROPOLOGIE CRIMINELLE.

Prof. M. Benedikt contributes a very interesting and studious paper to the May number on the skull of Charlotte Corday, which was exhibited at Paris, last year by Prince Roland Bonaparte. This skull was the subject of a very interesting discussion at the Paris Congress, between Lombroso, the eminent Italian, Topinard, editor of the French *Journal of Anthropology*, and Prof. Benedikt.

Monsieur A. Bournet contributes one of the ablest treatises of the proggress of Criminal Anthropology, or perhaps we may say "Criminality," that we have seen anywhere,

The number is very interesting, and this Journal is of great value to the student of craniology.

LA FEMME pendant LA PERIODE MENSTRUELLE. By DR. S. ICARD, Felix Acan, Publisher, Paris, 1890.

By far the ablest and most ambitious recent contribution to the literature of this subject, is this elaborate production, which the author, a pupil of Prof. Benj. Ball, has dedicated to the latter.

The work is divided into two parts, the first of which treats of menstrual insanity, from its general standpoint, in six chapters, while the second part is divided into eight chapters of particular forms of insanity, viz: Kleptomania, Pyromania, Dipsomania, Homocidal Mania, Suicidal Mania, Nymphomania, Religious Mania, and in the latter chapter the various forms of insanity due from sexual cause; and the whole treated as applied to woman.

This work will be read with interest here, because of the large number of cases we have been called upon to consider and discuss of these types of insanity where offences have been committed by women—particularly with their own offspring, Dr. Icard is certainly entitled to the thanks of the profession for his researches, and for the light thrown by his graceful pen upon this interesting subject.

REVUE INTERNATIONALE DE BIBLIOGRAPHIE.

The first number of this journal, issued in April, 1890, is before us, edited by Dr. Jules Rouvier, at BEYROUTH, (Syrie.)

It will be issued as a quarterly, and will endeavor to give the title and author of all works contributed to medicine, pharmacy and veterinary surgery. It gives in its first number five pages of recent contributions to Legal Medicine, with the names of the authors and the titles of the work alphabetically arranged.

In the allied sciences it devotes similar space to the following subjects:

Anthropology, Chemistry, Neurology, Psychiatry, Alcoholism, Teratology, Toxicology; all of which are classified. It must be of great value to medical students and writers, as you learn at a glance what has been said, and by whom, on any topic.

THE CRIMINAL. By Havelock Ellis (London), Walter Scott, Pater noster Row, (1890). (Contemporary Science Series.)

We had occasion in our last number to advert to "The Study of a Criminal," contributed to the June number of the *Journal of Mental Science*. That paper was the foundation or corner stone of the book, which we are glad to receive.

Chapter 3 treats of criminal anthropology from the psychical side, and chapter 4 from its physical. The chapter on "The Treatment of the Criminal" is able and full of interest.

It is illustrated with heads of criminals and cuts, some from Lombroso's works, and for a short work, is a valuable contribution to this subject from an English view that we are glad to see.

LECTURES TO NURSES. No. 1, (Antiseptics in Surgery). By E. STANMORE BISHOP, F. R. C. S., Eng. (Sampson Low, M. S. R. I., publishers, London.)

This is a capital work of its kind, and should be in all hospitals as a hand-book for the nurses themselves. It is easy of understanding, attractive both in composition and matter, and we think would be read with avidity by every nurse into whose hands it fell. C. B.

ITALIAN RETROSPECT.

REVISTA PENALE DI DOTTRINA, LEGISLAZIONE E GIURISPRUDENZA. —This monthly law magazine, edited by one of the leading professors of the oldest law school in the world (Prof. Lucchini, of Bologna) and contributed to by the foremost lawyers of Italy, contains much of interest to those whose knowledge of Italian enables them to keep abreast of the opinions of a school of jurists whose ability and erudition entitle them to more attention than they commonly receive by writers on this side of the Atlantic.

The number which lies before us (February, 1890), is, as might be expected, chiefly occupied with discussions on the new penal code of Italy, the interpretation of whose provisions bids fair to awake as much discussion as the similar codes of many of our own States have done in this country.

LA PSICHIATRIA, LA NEUROPATOLOGIA E LE SCIENZE AFFINI.— This quarterly periodical will be found of especial interest to those engaged in the study of insanity, as its articles treat exclusively of psychiatry, nervous diseases and kindred topics. Its editors, Professor Buonomo, director of the insane asylums of Naples, and Doctors Bianchi and Adriani, are experienced observers and able writers, and among the other contributors are some of the best known names in Italian medical juris-

prudence. Among the most interesting articles in last year's numbers were those on Atrophic Infantile Spinal Paralysis, with especial reference to the motor centres in the cortical substance of the brain and the movements associated with them, by Dr. R. Colella; on Inflammation of the Lungs in Paralytics, and Degeneration of the Pneumogastric Nerves, by Dr. L. Bianchi; and an Account of a Rare Case of Moral Degeneration, by Dr. G. d'Abundo.

Il Pisani, Gazetta Sicula di Scienze Mediche e Psicologiche.—The scope of this magazine, which is published annually at Palermo, is substantially the same as that of the preceding, embracing chiefly disorders of the mind and nerves, but containing other articles of a more comprehensive medico-legal interest, some of which are quite elaborate monographs upon their respective subjects. Among the leading articles in last year's number were those by G. Lipari, on Fibrinous Pneumonitis; by Salimi Pace, on Methods of obtaining Haemal Crystals from Blood Spots on Rusty Iron; and (also by S. Pace) on Two Cases of Parricide and Uxoricide.

Archivo Giuridico.—This, the official organ of the University of Pisa, is one of the best of the foreign law reviews that we have received. It appears once a month, each number containing some eighty pages of well-written matter upon a great variety of subjects of interest to the legal profession. Thus the last number contains articles on Administrative Institutions among the ancient Greeks and Romans, by L. Graziani; on Maritime Liens, by G. Bonfante; on the Origin and Development of the Roman Coloni; on Agency in the Conclusion of Contracts, by L. Tartufari; on the Origin of the *Actio Publiciana*, by F. Buonamici; and a Review of Penal Jurisprudence, by C. Castori.

Rivista Sperimentale di Medicina Legale, in Relazione con L'antropologia e le Scienze Giuridiche e Sociali.—Of wider scope and more general interest to medical jurists is the present medico-legal review, published quarterly at Reggio-Emilia. Its articles are written by well-known authorities in forensic medicine (among them Drs. Tamassia, Kornfeld, Tamburini, Krafft Ebing, and others) and cover the whole field of medical jurisprudence. Thus among last year's numbers are found contributions on Alcohol Poisoning in its Medico Legal Aspects, by G. Ravaglia; Surgical Operations as a Cause of Insanity, by R. Gucci; The Import of Haemoglobin Crystals in the Examination of Blood Spots, by G. Misuraca; Concealed Epilepsy and Psycho Epileptic Conditions Lasting Several Months, by G. Algeri; Differential Diagnosis between Suicidal and Homicidal Gunshot Wounds, by D. Torsellini; Studies on Identity, by S. Ottolenghi; and others of equal value and interest. W. C. H.

Geist und Korper. Studien uber die Wirkung der Einbildungskraft.—Von D. Hack Tuke, M.D., F. R. C. P., LL.D.

Uebersetzung von D. W. Kornfeld, Socio della Soc. Med.-Fisica Fiorentiana, Member of the Medico-Legal Society of New York. (Jena, Verlag von G. Fischer, 1888).

This important work upon the influence of the mind over the body, by the able editor of the Journal of Mental Science, has been so long and so favorably known to English readers as to render criticism unnecessary and commendation superfluous. We are glad to see that it has been translated into German, and that the work of translation has been faithfully and skilfully performed, so that now, through Dr. Kornfeld's efforts, a work alike interesting to professional and non-professional men has been placed within the reach of a very large and appreciative class of readers on the Continent.

BOOKS, JOURNALS AND PAMPHLETS RECEIVED.

UNION LEAGUE CLUB.—Report of Committees on Political Reform on McKinley Tariff Bill.

DR. JOHN H. RAUCH.—Report on Medical Education, 1765 to 1890, Illinois State Board of Health.

WILLARD C. HUMPHREYS, ESQ., A. M.—Government and Education in the United States.

CESARE LOMBROSA.—L'Anthropologie Criminelle et Ses Recent Progrés (Felix Alcan, Paris, 1890.)

DR. S. ICARD.—La Femme Pendant la Periode Menstruelle. (Felix Alcan, Paris, 1890).

FRANK P. NORBURY, M. D.—Twentieth and Twenty-first Report of Illinois Central Hospital for the Insane, Oct. 1, 1886–July 1, 1888.

SAMPSON, LOW, MARSTON, SEARLE & RIVINGTON, London. Lectures to Nurses on Antiseptics in Surgery. By E. Stanhope Bishop, F. R. C. S.

M. J. WHITE, M. D.—Biennial Report Milwaukee Hospital for Insane, 1887-1888.

UNIVERSITY OF VIRGINIA.—Catalogue for 1889-90.

C. E. WRIGHT, M. D.—Forty-first Annual Report Central Indiana Hospital for Insane. (1889).

THOS. W. KAY, M. D.—The Blunt Cusette in Uterine Hemorrhage. (1889).

HON. JOHN A. PETERS.—Opinion of Court in Main vs. Stain and Cromwell.

HON. JOHN JAY.—Catalogue of Library of Huguenot Society.

CHAS. B. KELSEY, M. D.—Stricture of the Rectum. (1890).

INTERNATIONAL UNION OF PENAL LAW.—Bulletin. Second year, No. 1, Feb., 1890.

DR. JOSE I. TORRALBAS.—Los Insectios y la Seleccion Natural de las Plantas,

DR. C. M. HAY.—Hereditary Chorea. Eight cases. (1890).

DR. W. CHEATHAM.—Acute Mania, following the Enucleation of an Eye.

JABEZ HOGG, M. D.—Color Blindness.

NEW YORK CANCER HOSPITAL.—Fifth Annual Report.

DR. AUG. FOREL.—Zwei Kriminal Psychologische Falle. (1889).

L. S. MCMURTRY, A. M., M. D.—Twenty Cases of Abdominal Section. (Nov. 1889).

THE LAW AND TRADE PRINTING CO.—Carmencita, the Pearl of Seville. (1890). James Ramirez & Co.

E. STANHOPE BISHOP, ESQ., F. R. C. S.—Antiseptics in Surgery. Lecture to Nurses. No. 1.

AMERICAN MEDICAL ASSOCIATION.—Programme Annual Convention of 1890.

THOMAS GILLERTON, M. D.—Inflammation of Vermiform Appendix. (1890).

W. L. BANER, M. D.—Notes on the Inhalation Treatment of Respiratory Diseases. (1890).

B. SACHS, M. D., FRED PETERSON, M. D.—Cerebral Palsies in Early Life. Analysis of 140 cases. (1890).

DR. JULES CHRISTIAN.—Epilepsie, Folie Epileptique. (1890).

AUG. SCHACNER, M. D.—Gun-shot wounds of the Abdomen. (1890).

ROBERT GUN, ESQ.—List of claimants to property. Great Britain.

WM. R. HORNBLOWER, ESQ.—Remarks on Proposed Code of Evidence.

DR. L. TH. POMPE.—Constitution, etc., of the Dutch Society of Psychiatry, on Nov. 20, 1889.

B. A. WATSON, M. D.—Experimental Study of Lesions. (1890).

T. GOLD FROST, ESQ.—The French Constitution of 1793.

DR. J. F. Todd, M. D.—Secondary Consequences of Surgical Shock.

PROF. ARCHIBALD CHURCH, M. D.—The Proper Disposition of the Criminal Insane. Remarks of Hon. Robert M. Ireland and Dr. Richard Duvrey. Reprint from North American Practitioner. (1890).

THE MARQUIS DE LEUVILLE.—Leading English and London Journals. (1890).

NEW YORK ENGRAVING & PRINTING CO.—Prospectus and Samples of Work. (1890).

DR. IRVING A. WATSON.—Preliminary Announcement of Eighteenth Annual Meeting at Charleston, S. C. (1890).

MAGAZINES.

THE NORTH AMERICAN REVIEW.—The cleverest, the most fearless and ablest paper in the June number is that entitled "Criminal Politics," by E. L. Godkin. There is a chapter of it on "Political Pulls," that we commend to every student of American political workings in the City of New York, which shows the trend of popular opinion in our metropolitan city over the amazing recent developments and exposures of prominent public officials yet unpunished, that let glimpses of light into the administration of justice by the captains of the police of the precincts, calculated to make an American's face crimson and his cheeks tingle with shame.

GRIP—Has come out with a new cover, and it seems to us has sharpened its pencil afresh on its Canadian political cartoons, which are of a high order of merit.

THE LONDON ILLUSTRATED NEWS.—Is it generally known to the profession and the American public that this greatest of illustrated newspapers of the world, furnishes an American edition, or rather its London edition through its New York House, at the cost of only $5 per annum, weekly?

ECLECTIC.—The July number of Eclectic is unusually attractive. Its illustration is a fine steel engraving of PIGNEROL.

THE WOMAN'S CYCLE.—(Mrs. J. C. Croly (Jennie June), editor.) This is a fornightly journal, and is perhaps the strongest journal devoted to the interests of woman that comes under our eye. The June 26 number, contains, besides "A Woman's Club Directory," a series of articles mainly written by women.

LIPPINCOTT'S.—The July number has a very readable article by OSCAR WILDE, entitled "The Picture of Dorian Gray." This journal has made a decided hit on its articles from the Round Robin Club. The first one contained bits from Julian Hawthorne, J. M. Stoddart, Frank Small, Armoy J. Knox and some others. No. 2 from Senator Watson C. Squire, Thos. Nelson Page, Thomas Ochiltree, Moses P. Handy and Richard Malcolm Jonston. This Round Robin series promises to be a feature of this journal.

THE GREEN BAG.—For July, 1890, is very valuable to New York lawyers, especially as it contains portraits of eleven of the Ex-Justices of the New York Court of Appeals, all dead but one, with an article by Irving Brown, Esq., on the subject.

The number has for its frontispiece a reproduction of the New York Court of Appeals of 1878, from a photograph, which also contains besides the judges and officers of that court at that time, portraits of leading members of the Bar of the State.

THE CHICAGO MEDICAL TIMES.—Is the Western organ of the Eclectic School of Medicine, edited by by Drs. A. L. Clark & Finley Ellingwood. A monthly devoted to the school of which it is the foremost American exponent.

THE VA. MEDICAL MONTHLY.—This staunch old journal has reached its 17th volume. Is a monthly of excellence, edited by Dr. Landon B. Edwards, published at Richmond, and takes high rank as a medical monthly from the South-eastern States.

THE BUFFALO MEDICAL AND SURGICAL JOURNAL.—Thos. Lothrop, M. D. and W. W. Potter, M. D., editors. We like the article by Dr. F. Bradnack on "Death, its modes and premonitions," and there is valuable truth in Dr. Vanderveer's article "She thought it was her change of life."

THE CANADIAN PRACTITIONER.—Edited by A. H. Wright, B. A. M. D.. Toronto, M. R, C. S. England.

The July number gives Dr. J. Algernon Temple's Presidential Address at the meeting of the Ontario Medical Association, and the journal is the able exponent of Canadian Medical Advance Thought.

THE BOSTON MEDICAL AND SURGICAL JOURNAL.—Dr. W. B. Hills makes a valuable report in the July 3 number upon Medical Chemistry. That upon the recognition of blood stains in Medico-Legal investigations is valuable. This journal gives more valuable information upon Medico-Legal questions than any other American journal we see.

THE COLLEGE AND CLINICAL RECORD.—Dr. Richard J. Dunglison has made this journal prominent by his energy, perseverance and ability. He enters his protest against the use of poisons by the undertakers under the pretext of embalming, which has been instituted by the bill proposed and pressed by Prof. Witthaus before the New York legislature last session, and forcibly seconded by the Boston Medical and Surgical Journal.

Legal steps should be taken to prevent the use of mineral poisons in so-called embalming, because it is, as scientific investigation now stands, an insuperable barrier to the chemist beyond which he cannot go, in discriminating between the poison used by the poisoner to destroy life, and that injected by the undertaker.

The pamphlet published by Prof. Witthaus with its accompanying letters should be reproduced at length in the press of to-day.

THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION.—This journal, like the British Medical, is the organ of a national medical association, and is gradually obtaining a large circulation. It is a weekly of decided merit, ably edited and deserves the support that it receives from the medical profession, especially in the South and West.

We notice in the July 5th number an able paper by Dr. Wm. Warren Potter, on "What is the present Medico-Legal Status of the Abdominal Surgeon?"; a notice of the action of the annual meeting of the Chicago Medico-Legal Society, and an extended notice of the question as to *embalming* so-called, to which we have already alluded.

THE SUPREME COURT OF THE STATES AND THEIR CHIEF JUSTICES.

We take a great pride and pleasure in presenting to our readers, a group containing the Chief Justices of the highest State courts, of last resort, of all the New England States, save New Hampshire, all the middle States, and of Louisiana and New Brunswick.

We believe the American Bar, will thank us, for this reproduction, especially as we have arranged to furnish it, in a large group suitable for framing alone in an excellent manner, to such as desire it.

We hope to follow it with the remainder of the Chief Justices of the American States and the Canadas, as a part of the series of groups of portraits we are now publishing in connection with the Medico-Legal Society and the International Medico-Legal Congress.

The present group is Chief Justice Peters, Maine; Chief Justice Royce, Vt.; Chief Justice Morton, Mass.; Chief Justice Durfee, R. I.; Chief Justice Andrews, Conn.; Chief Justice Ruger, N. Y.; Chief Justice Beasly, N. J.; Chief Justice Paxson, Pa.; Chief Justice Minshall, Ohio; Chief Justice Comegys, Del.; Chief Justice Harlan, Md.; Chief Justice Bermudez, La., Chief Justice Sir John C. Allen, of N. B.

D. C. Calvin

HON. DELANO C. CALVIN.

Ex-Surrogate CALVIN was born in Jefferson County, New York, Nov. 3, 1824, and is descended from good New England stock, and is of Vermont parentage.

He studied law with JOHN CLARK, Esq., at Watertown, New York, and spent a year in the law school of Prof. FOWLER, at Cherry Valley, N. Y. He was admitted to the Bar in September, 1848, entering immediately into the practice of law at Watertown, N. Y., as the parner of his preceptor, John Clark, Esq.

In 1852 he was elected District Attorney of Jefferson County, serving as such for three years, and he obtained a prominent position at the bar of that county.

He removed to New York in 1867 and entered upon a large and lucrative practice, and took a prominent position among the leaders of the Democracy of that city. Nominated in the fall of 1875 for the office of Surrogate, he was defeated with his party, owing to local dissensions, but on the death of Surrogate Van Schaick he was chosen to fill the vacancy, and held that office with great public approval and satisfaction from April 1876 to Jan. 1, 1882.

He was nominated by his party for the same position in the canvass of 1881, but while running ahead of his ticket, failed of an election by the dissensions of the Democracy in the City of New York in that political contest.

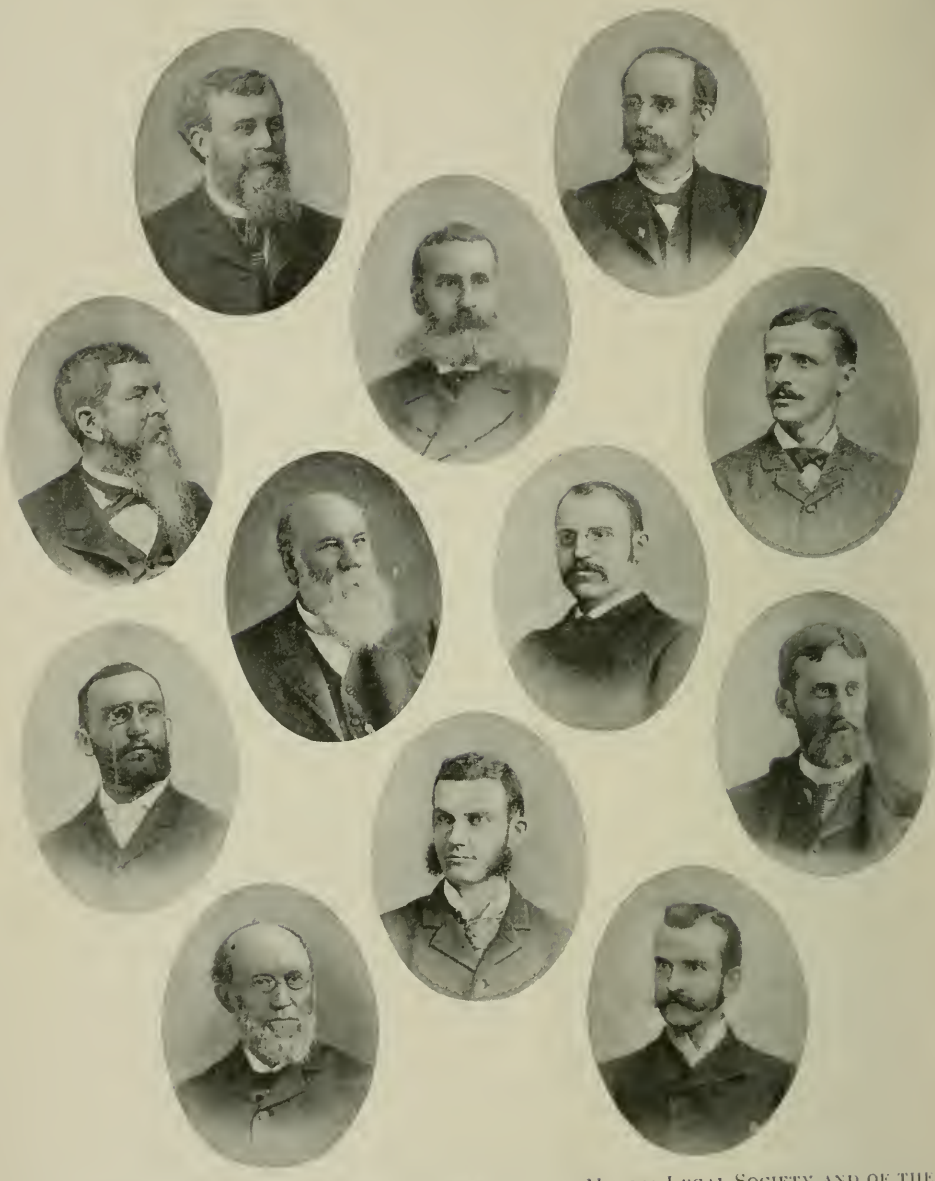
In his official life Judge Calvin made many friends and but few enemies, and his defeat was a loss to the city and his political party, but a great gain to the Bar,

and he again entered the practice of the law with vigor, and now holds a prominent and influential position at the New York Bar.

Judge Calvin is an eloquent, forcible and ready speaker, a very dangerous opponent, strong before a jury, and equally powerful before the General Term or in the Court of Appeals. He is a man of commanding and dignified presence, of strong personality and force, and his whole career has been an honor to both bench and bar, in each of which he has been conspicuous since he came to the City of New York.

He has taken a great interest in Medical Jurisprudence Has been for many years a member of the Medico-Legal Society, to the literature of which he has been a frequent contributor, and has held official positions in the Medico-Legal Society, of which he has been an active member for many years, holding at one time the position of Vice-President of that body.

He is a careful student, learned in the lore and literature of his profession, and has borne a conspicuous and prominent part in the profession for many years. He received the degree of L.L.D. from Hobart College in 1881. Without the opportunity of a collegiate education, Judge Calvin has been a conspicuous example of those men of the bar, who, like Stoughton, Brady, O'Connor, Martin, Grover and others, have won their way into the front rank by energy, perseverance, industry, and that self-culture and training which has furnished the American Bar with its most lustrous names.



EMINENT AMERICAN ALIENISTS AND PHYSICIANS OF THE MEDICO-LEGAL SOCIETY AND OF THE INTERNATIONAL CONGRESS OF MEDICAL JURISPRUDENCE.

DR. SILAS D. PRESBERY,
Ex President Massachusetts Medico-Legal Society.
Taunton, Mass.

MARSHALL D. EWELL, M.D.,
Professor of Medical Jurisprudence.
Chicago, Ill

DR. THOMAS G. MORTON,
Chairman Pennsylvania State Lunacy Board.

DR. MORRIS H. GUTH,
Assistant Superintendent State Hospital for Insane, Warren, Pa.

DR. D. R. WALLACE,
Superintendent Insane Asylum,
Terrall, Texas.

DR. GEO. D. WILCOX,
Ex-President Rhode Island Medico-Legal Society, Providence, R. I.

DR. GEO. F. KEENE,
Superintendent State Insane Asylum,
Howard, R. I.

DR. M. J. WHITE.
Superintendent Insane Asylum.
Wauwatosa, Wis.

DR. W. THORNTON PARKER,
Medical Examiner,
Newport, R. I.

DR. WILLIAM F. TAYLOR,
Secretary Massachusetts Medico-Legal Society,
New Beford, Mass.

DR. R. L. PARSONS,
Superintendent Insane Asylum,
Sing Sing, N. Y.

DR. FRANK P. NORBURY,
Assistant Physician Insane Asylum.
Jacksonville, Ill.

THE LEGAL TEST OF LUNACY.

By A. Wood Renton, Esq., Barrister at Law, London.

It may well be doubted whether the legal profession itself is fully alive to the radical change which has passed over the old law as to the criteria of capacity and responsibility in mental disease during recent years. The object of the present paper is to set forth the chief incidents in this silent revolution as briefly and clearly as may be.

I. The law as to the testamentary capacity of the insane, and the law as to their capacity to enter into the contract of marriage, have had practically the same history, and may therefore be considered together. In each of these departments we find three, and the same three, stages of development. At first, the question of capacity is treated solely as a question of fact, to be determined according to the ordinary rules of evidence. Then there comes an intermediate and metaphysical period, coincident in each case with a great advance in medical knowledge, and inspired by the idea—which was formulated as a definite external standard—that, the mind being one and indivisible, and insanity being a disease of the mind, any derangement of the faculties must be fatal to civil capacity.* In recent years, how-

* From the same postulates the American Courts tended at one time to draw a directly contrary conclusion, viz. that no impairment of reason short of absolute idiocy should be deemed fatal to testamentary power. Cp. the *Lispenard* case, 1841, 26 Wendell, 255, *contra* however *Delafield* v. *Parish*, 1862, 25 N. Y. 1. The English authorities are *Waring* v. *Waring*, 1848, 6 Moo. P. C. 341, and *Hancock* v, *Peaty*, 1867, 1 P. & D. 335.

ever, the courts have reverted to the old criterion, which did excellent duty before Lord Brougham came under the baneful influence of Dr. Ray, and each case of disputed capacity is once more decided upon its own merits, just as if the disturbing dicta in *Waring* v. *Waring* had never been promulgated.

II. The law as to the capacity of the insane to enter into other contracts than that of marriage has had a curious and extremely complicated history, which it is hardly possible to write without error. Starting with the maxim of the Roman law—*furiosus autem stipulari non potest*—which was quite unsuited to a highly developed mercantile community such as ours, it turns aside, although not with a very clear or certain current of authorities, towards the doctrine of Coke, that a man cannot be allowed to plead his own incapacity, and then wanders along through a number of exceptions and distinctions—"matters of record" and "matters in pais," "contracts executed," and "contracts executory"—till it is arrested by the decision of the Court of Exchequer Chamber in *Molton* v. *Camroux* (2 Ex. 487, 4 Ex. 17, 18 L. J. Ex. 68, 356). At first sight nothing could seem more unpromising than an effort to trace any movement towards a simple test of capacity in a department of law whose course hitherto has been so much impeded by its history. But if we keep clearly in view the fact that insanity and lunacy or legal unsoundness of mind are not convertible terms, we shall find (1) that the historical difficulties above referred to are confined to the latter; (2) that it has nowhere been decided in recent years that the mere existence of mental disease vitiates contractual capacity; (3) that there are dicta which prepare the way for the decision in *Jenkins* v. *Morris* (L. R. 14 Ch. D. 674); and (4) that in the law of contract,

as in the law testamentary and in the law of marriage, no man is counted a lunatic unless he is incapable of appreciating the nature, and of passing a rational judgment upon the results, of the particular act which is the subject of judicial consideration.

III. Can the law of criminal responsibility in mental disease be fairly subjected to a similar analysis? It is not proposed to dwell here upon the vagaries of its history, how "the wild beast theory" of Mr. Justice Tracy yielded to "the general right and wrong theory" of Lord Mansfield, which was in turn supplanted by "the rules in MacNaghten's case." Nor do I mean to rehearse the well-known criticisms on "the rules" which are associated with the names of Sir James Stephen and Dr. Henry Maudsley. Even the temptation to argue that the answers of the Judges not only are not, but from the very terms in which they are expressed were never intended to be law, must for the present be overcome. The question is, what standard of criminal responsibility is *now* applied in cases of alleged unsoundness of mind? Owing to the absence of any adequate provision in our law for the review of criminal cases by a Court of Appeal, we have no authoritative judgment upon the subject, to set side by side with such elaborate "opinions" as that of Judge Somerville in *Parsons* v. *The State*. But every barrister who has gone on circuit knows that "the rules in MacNaghten's case" are, avowedly, manipulated by judges, and, if need be, defied by juries, in order that injustice may not be done to the innumerable prisoners whose mental disease refuses to conform to any of the orthodox types which alone are nominally recognized by English law. Even the inebriate, the *voluntarius daemon* of Coke, who formerly had "no privilege thereby, but what hurt or ill soever

he doeth, his drunkenness doth aggravate it," is now held to come within the meaning of the rules in MacNaghten's case, and to be irresponsible if he did not know the nature and quality of his acts.* Loss of self-control, resulting from any disease of the mind, is in practice regarded as a valid exculpatory plea; and the abrupt question, *Could he help it?* in which Lord Bramwell is reported to have left to the jury the determination of the sanity or insanity of Dove, though at variance with the theory of the criminal law, accurately represents the spirit of its administration at the present day.

It appears, therefore, that there is now no standard, external to individual conduct, for determining the capacity and the liability of the insane, and that the law knows but one test of lunacy, viz. "Was the person whose act is in question able to understand its nature, and to pass a fairly rational judgment on its consequences to himself and others; and was he a free agent so far as that act was concerned?"

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* Cp. the language attributed to Mr. Justice Day in *Reg.* v. *Baines*, Lancaster Assizes, *The Times*, 25th January, 1886; also a scholarly paper on "Medical and Legal Preventives for Dipsomania," by Professor Gairdner of Glasgow (Birmingham *Medical Review*, January, 1890).

Note by the Editor:

This paper appeared in the July number of the *London Law Quarterly Review*, and will be read before the Medico-Legal Society at the meeting of October, 1890.

*THE PROPER DISPOSITION OF THE CRIMINAL INSANE.**

By ARCHIBALD CHURCH, M. D., CHICAGO,
Professor of Diseases of the Mind and Nervous System in Chicago Policlinic.

From the beginning of human history criminality has of sociological problems been the most prominent. Its solution has called for wisdom apparently in excess of human capabilities, and the management of this defective class has been a burden upon every community and a drag upon every enterprise of mankind. Later on in the evolution of civilization, that humanitarianism which spreads its benevolent mantle over the unfortunate and afflicted took the insane under its shelter. From small and rude beginnings have been developed the noble institutions of to-day, and measures at first only self-protective have now broadened into philanthropies jealous of the rights and personal interests of all concerned. Still it must be admitted that perfection is not yet attained either in the penal or reformatory treatment of the criminal or the hospital asylum care of the lunatic. If then, the best measures known to us sometimes miscarry in dealing severally with these unfortunate classes, one can realize at a glance how greatly multiplied are the intricacies of the puzzle when a community is forced to deal with a combination of crime and insanity in the same individual, human failings sometimes of kindred birth, sometimes wholly disassociated, sometimes the one provocative of the other, sometimes one excluding

*Read before the Medico-Legal Society, March 1, 1890.

the other. Such a complication of defects bring up the nicest points of personal rights, privileges and immunities and important questions of public safety, duty and responsibility. These cases ring the changes throughout the whole range of humanitarianism, sentimentalism and equity. Generalization is most difficult and specialization often impossible. The essence of that mutual responsibility existing between the individual and the community is somewhat intangible, and varies under diverse circumstances, but its existence is indubitable and lies at the root of all government and advancement. These questions must therefore be faced and managed in the light of our highest information and on the broad lines of sympathy and justice.

The term "criminal insane" is generic in its ordinary usage, and a little limitation will enable us more practically to consider the problem in hand. It includes, *first*, the insane person who commits any crime, and, *second*, the convict who becomes insane during the term of his imprisonment. Of the former order there are many sorts and varieties depending upon the crime and more particularly upon the past life and tendencies of the individual. By no rule of justice ought we to consider as criminal the act of a respectable person commited while unquestionably insane, and about that person we should throw the strongest protection of the State. But those who have led a life of crime, or shown criminal tendencies, or had criminal associations and then have become mentally deranged, whether the derangement is attended by crime or not, may fairly be placed in the criminal category, and are upon a moral footing and social plane with the convict class. It would be well, therefore, to restrict the designation "criminal insane" to those leading criminal lives or manifest-

ing criminal inclinations before having their sanity called into question.

And first let us consider the insane convict. Deprived by due legal process of liberty, the pursuit of happiness, the control of property and the rights of citizenship, his mental illness entitles him to the care and comfort provided in an institution properly equipped for the treatment of insanity as much as physical injury or disease demand his going to the prison hospital. It is therefore with propriety that simply upon the certificate of the prison physician, as a rule, he is placed in the care of some public institution for the alienated. Having been sequestrated for crime, no injustice is done him, even if not insane, by transfer from a prison, with its necessary hardships and rigid discipline, to the comforts and brightness of hospital wards under the thoughtful observation of trained medical supervision. Indeed any other course would be cruel where insanity is reasonably suspected, but there is another side of the case and other interests are to be considered. In nearly every State and Territory, such convicts are sent to the public asylums. These institutions have been constructed, let us hope, with the specific design of eradicating every prison feature, so that the word *incacerated* can not be properly applied to their inmates. To these hospitals the most unfortunate of our kind of all grades of respectability and culture are sent, and it is earnestly sought to make their surroundings as pleasant, agreeable and as little irksome as is consistent with their proper care and protection. Every possible freedom is accorded them and it is in the highest degree desirable that their associates and associations may be of the best. Now, by one of the greatest errors in our laws regarding lunatics, a loud-crying shame upon our boasted public charity and civil-

ized treatment of unfortunates, your brother or mine may, perchance, be forced to occupy the same ward, possibly to eat at the same table or sleep in the same room, with convicts of the lowest propensities, the most revolting habits and the most filthy speech. I cannot forbear saying that if there is anything in the whole range of public charities which calls more loudly for immediate attention and correction, I do not know it. It turns the hospital into a sort of prison, for these convicts cannot be accorded privileges and a degree of freedom which is the due of those simply unfortunate. The hospital physicians and attendants become nothing but keepers and turnkeys, and the whole character and purpose of the institution is subverted to a short-sighted public economy based upon mere expediency. Possibly this may be considered much overdrawn, but, as an instance, during some five years' personal experience on the medical staff of the Illinois State Hospital at Elgin, nearly twelve per centum of the male patients were criminals, an average of 30 out of 270. Asylum physicians are unanimous in crying down this outrage upon unfortunate humanity, and have for years stood solidly shoulder to shoulder seeking and working for a reform and voicing the complaints and outraged sensibilities of the insane, who otherwise are voiceless and without appeal, while often realizing the degredation of the situation very keenly. And let us not forget that there are female convicts also who become insane. I must ask you to contemplate the satisfaction of sensitive women who are forced by their misfortune into hourly contact with such moral wrecks. Now, all convicts who become insane are not uniformly villainous, but everyone of hospital experience will bear out the statement that a more trying, desperate and insubordinate lot of patients is not

encountered in asylum practice. They bring with them their criminal instincts, which mental disease rarely wipes out, but rather intensifies. They are constantly attempting to escape; it has been their mental bias and the object often of years of thought and scheming, and they will conspire against those in charge, something ordinary patients never do.

It results that the many are made to suffer for a few who could be better cared for and more suitably managed without detriment to the innocent majority, but on the other hand with a material improvement in their environment and chance of recovery. Without further enumeration of the hundred ways in which the present disposition of the criminal insane disturbs the proper hospital treatment of citizens who have in no way merited the close contact with convicts, taking it for granted that such association only needs pointing out to insure its condemnation and its instant recognition as an outrage upon those demanding the highest degree of benevolent and generous sympathy, we may consider the remedy. It is not difficult to find, impossible to realize or in any way unreasonable. Indeed, in some of our States it has already been accomplished, and if not here discussed at greater length, it is because all who have considered the subject are agreed upon its advisability. A separate hospital for this class will secure advantages to the convicts, relieve the asylums of a burden which should never have been placed upon them, and prevent an actual injury to the innocent insane during their hospital sojourn. For such an institution three localities are suggested: in connection with the prison; as a department of an asylum for the insane; or entirely separate from both. Undoubtedly the mere fact of being in prison, constantly present to the mind of the convict, is

sufficient, aside from the confinement and other conditions incident to his safe keeping, to upset his reason where hereditary or other predisposition to insanity exists. Therefore this institution should be outside the prison horizon, On the other hand, if intimate contact with the convict class is detrimental and undesirable for our insane who are in no way culpable before the law, remote association would only be a degree of improvement and the mutual comparison of criminal and non-criminal in neighboring buildings would be a needless irritation to both. Let the hospital for the convict insane, then, preferably be an entirely distinct and separate institution under its own proper management. Let it be freed, as far as is consistent with safe keeping, from prison features and supplied with all the paraphernalia of a well-equipped hospital, but at the same time it must necessarily be a house of detention of a different construction and arrangement from that of the general hospital for the insane. Such a hospital has been constructed and is in successful operation in the District of Columbia, and also in the State of New York. In the four Illinois State hospitals for insane are about one hundred inmates of the criminal class, an amply sufficient number to justify the erection of a sizable asylum of this sort. In jails, county houses and infirmaries are many more, and it is stated that in the State Prisons are a number of others who, being docile and industrious, are there retained in default of a proper place rather than to burden the asylums with their care. Such a hospital, I hope shortly to point out, would serve further purposes.

If we now turn attention to the other class of criminal insane, namely, individuals of criminal lives or tendencies, who commit some crime for which their responsi-

bility is questioned, we find it much less easy to indicate an equitable course of action and to properly dispose of such malefactors. What is here offered in this connection is brought forward with considerable doubt and hesitation, but as the result of some study, thought and experience.

The plea of insanity as a defense has, justly, perhaps, fallen under public censure and into disrepute, frequently, no doubt, being employed upon very inadequate grounds. It is readily understood that an evil-doer would prefer a sojourn in an insane asylum to capital punishment or imprisonment. He thereby gains the prospect of being discharged after a short time as of sound mind, an obligation placed upon hospital superintendents under penalty, or of effecting an escape at an early day from an institution which should be able to boast of its lack of restraints. An initial difficulty is that the question of insanity is made a question of fact to be decided by a jury. It may not be necessary to point out that a jury of twelve laymen, whatever may their intelligence and information in the general affairs of life, are scarcely fit thereby to decide upon questions of mental disease that are at all obscure or subject to debate. They may, it is true, be supplied with the opinions of experts, but such testimony is usually and unfortunately pretty evenly balanced. Moreover, the vital question is not as to the mental state of the accused at the time of trial, but at the date of the commission of the crime, at a period before he has come under the observation of jury and experts, so that the conclusions as to responsibility are necessarily retrospective and consequently largely based upon probability at best. It is also to be kept in mind that in a majority of such cases even for experts to form an opinion of real value, the

accused should be kept under their careful watch possibly for weeks, in all the varying conditions of daily occupation, and when he is off his guard. The expression "off his guard" is used advisedly, for people indubitably insane are not rarely encountered who are capable of concealing their mental obliquities for weeks or even months, knowing the significance of their vagaries or peculiarities, in the estimation of those about them. It is quite within the range of probability that a man actually insane may deny his insanity and shrewdly conceal his alienation to his own detriment; while, on the other hand, an expert assumes a great responsibility when he swears that in his opinion the accused is a malingerer and responsible before the law for his acts.

Two cases in point, briefly:

(1) A lawyer became insane from exposure to the sun and hereditary causes. He had intense hallucinations of hearing, by which he was led to believe in the existence of conspiracies against his life, business and domestic happiness. He thought electrical influences were brought to bear upon him and that his mind was read by many about him. After a short hospital residence he gained physically, and was removed by his family against the advice of the administration and in the face of the assurance that his entire recovery was hopeless. After a few weeks he was declared sane by a jury, restored to the control of his property, and subsequently within a year elected police magistrate. In a short time he commenced to threaten various people without the slightest provocation, followed them with a pistol, abused his family on frequent occasions, gave expression to a peculiar mental condition, and kept the community in a state of serious apprehension. When finally arrested he conducted his own defense most shrewdly, making auditory hallucinations dwindle into mere acuteness of the sense of hearing, referring to the daily papers on the subject of mind-reading, and justifying by specious argument all the peculiarities of his conduct. After considerable hesitation the jury pronounced him insane, but able to take care of his property. He was sent to another asylum, where for months he never manifested the slightest mental warping, having learned to conceal his delusions, and was finally liberated on *habeas corpus* proceedings, the asylum officers making no opposition. He is now at liberty and still insane, and dangerously so, hearing voices, accusing secret societies of conspiring against him, and acting very strangely generally. It is only a question of time before his delusions of persecution lead him to do some frightful deed for which he

willl not be responsible in equity, though he probably would refuse to be defended on the ground of insanity,

(2) A convict who had nearly completed his term showed a peculiar and unruly conduct for which he was punished without effect. Bread and water were good cheer, the "solitary" gave him joy, and being ironed to his cell door was a lordly pleasure. Placed in a hospital cell he made no complaint of the lack of furniture, but was unreasonably contented and hilarious about everything. He developed filthy habits, and was finally certified insane by the prison physician, but not immediately transferred. He would mix his breakfast with the night soil in his bucket and devour the mess with gusto. He did this every morning for several weeks. In spite of the physician's certificate the Warden was not satisfied of the verity of the insanity, but finally concluded there could be no mistake. The morning for the transfer, of which the convict was not informed, arrived and the Warden made him an early visit, to be most rationally greeted by the prisoner, who said he thought he had carried the thing far enough and wanted to go back to work.

These instances may indicate the difficulties in the way of reaching a just conclusion in this class of cases, and the futility of passing upon a mental condition after a single interview.

To simplify the problem we may first consider capital offences defended on the ground of insanity, bearing in mind that less serious crimes differ in degree only and that the treatment of such culprits must be the same in kind. As it has been tersely put, in these cases there are but three courses open: "To keep him, to hang him, to let him go." Taking it now for granted that insanity exists in a given case, in this day and age it is futile to consider any other than the first proposition. The insane criminal must be kept and society must be protected. But where should such a criminal be sent? As before indicated, he is on a moral and social plane with the convict, and his association with innocent unfortunates is as reprehensible as in the case of the convict. The character of his malady has taken such a serious and dangerous form that special measures are required for his safe detention. Now, with the exception of the

States of New York and Michigan and the District of Columbia, such criminals are sent upon *mittimus* proceedings to public institutions for the insane, there to be held until fully and permanently restored. Their presence in such hospitals gives rise to exactly the same complications as does that of the convict, and works as great a hardship. It also throws upon the superintendents of such institutions a most onerous burden. These patients incessantly clamor for release, fully appreciating that the medical head of the home is the arbitrator of their fate, and that his opinion alone stands between them and freedom, for from the penalty of their crime they have been exonerated by a trial jury.

Another question arises in regard to the protection of society. Should such criminals, having once demonstrated their unfitness to be at large, upon regaining their reason be liberated, probably again in the keen strife of the world to fall and possibly again to commit terrible crimes? To quote Dr. Godding (MEDICO-LEGAL JOURNAL, December, 1889): "The finding not guilty by reason of insanity of a person who has committed a capital offence should carry with it the presumption of continued insanity and the forfeit of the personal liberty of the individual." Acting upon a similar line of thought, and following British precedent, the State of Massachusetts commits such persons to a state insane asylum for life, from which they may be discharged only by the Governor, by and with the consent of the Council, upon being assured of the harmlessness to society of such proceedings, exactly as in the pardoning of convicts. As an additional reason for such permanent sequestration of the criminal insane, the bad mental and physical legacies they may bequeath their posterity is to be kept in mind, that the propagation of

insanity and crime may be diminished by at least this item.

Now, instead of sending these criminals to state institutions designed for another class of citizens, it would be more fitting that they be supported in asylums such as have been outlined, especially designed for the criminal class. It may be urged that this proceeding would at times work hardship and injustice upon individuals who are entitled to sympathy and protection, who have committed some crime through insanity and thereby are irresponsible; but criminality and criminal tendencies in the past life are insisted upon as the criterion of classification, and the courts may be safely left, it appears to me, to decide this point. Besides, under the Massachusetts law, appeal to the Governor is always open. The effect of such legislation upon criminals who are willing to evade justice by the plea of insanity could not fail to be wholesome. If it was understood that discharge on the ground of lunacy carried with it in capital cases sequestration for life in an institution which did not afford opportunity for immediate escape, and from which there would not be discharge upon proving sanity, the popularity of this "dodge" would inevitably decline, and the plea of insanity be rehabilitated in the public esteem and in fact.

If such disposition of criminals be accepted as proper in capital cases, it logically follows that for less serious offenses a similar course is justifiable, with certain modifications. They might be committed to this institution for a period equal to the term provided by law as a penalty for their particular offence, with the provision that if still insane upon its completion they should be there retained until fully restored, and in the event of regaining sanity during the period for which they were

committed, that they might be discharged by the Governor, through the advice and recommendation of an advisory board. In no instance should the medical superintendent be burdened with the responsibility of setting a criminal at liberty, but this should be divided among a commission. This would, in effect, amount to committing this class of offenders to such an institution until mentally restored, but still leave the commission power to exercise discretion in returning evil doers too promptly to their old haunts. The objection that this procedure places the sane and insane upon nearly an equal footing of responsibility, making them amenable for equal terms of sequestration, may be promptly raised; but it is to be borne in mind that a hospital is not a prison, that a residence in one is not comparable to hard labor and rigid discipline in the other, and that one is penal, while the other is mentally, morally and physically reformatory. Again it may be emphasized that criminality is the criterion for action in these cases, and that the welfare and safety of the public is not to be forgotten. When an individual demonstrates his unfitness for freedom, and his potentiality for harm, he rightly comes within the jurisdiction of the self-protective laws of a community. Should criminals by counterfiting insanity manage to evade the legal penalty for their crimes, upon being sent to such an asylum they would be placed at once under the continued observation of trained experts and in the most favorable conditions for the detection of the imposture. As soon as this should be determined, they could be referred back to the court having jurisdiction on the original charge, the inquisition as to their insanity not necessarily taking up their responsibility for the crime in question. Again, in doubtful cases, and in cases where malingering is sus-

pected, they might be temporarily committed to this institution until their mental state could be reliably determined.

It is gratifying to know that our State, which has established such an admirable record for generosity toward its public charities, has also taken steps to provide for the separate maintainance of the criminal insane. At the last session of the legislature a bill for this purpose was introduced by Mr. Ireland, and as subsequently modified by him through the appropriation committee, was passed by both houses. It appropriated $50,000 for the erection and equipment of a building in connection with the State prison at Chester for the accommodation of one hundred and fifty (150) patients, and directed the transfer to that place, when completed, of the criminal insane in the State hospitals and prisons, and for direct commitment thereto by the courts in certain cases. There are some features of the bill that are open to criticism, and it may be at once said that it is a compromise measure—an effort to adapt the garment to a short amount of cloth. The appropriation is not large enough, and may prevent any action being taken. It seems out of the question upon a per capita allowance of $333\frac{1}{3}$ to build and equip a suitable institution. In New York $666\frac{2}{3}$ has been found inadequate, and probably $900 per capita would be required if land is to be bought and the hospital erected as its needs and purposes demand. Its connection with the prison for reasons already indicated is not judicious, but was decided upon in order to secure convict labor in its erection and to utilize a site already the property of the State. However, it marks a distinct advance of public sentiment in regard to the care of insane criminals, and gives earnest of better things to come.

Section 10 of this bill provides that "The medical superintendent of either of the hospitals for the insane in Illinois, with the consent of their board of trustees, may make application to the Board of Commissioners of Public Charities for an order of transfer of any or all insane persons who have committed an act of homicide, or who have attempted to commit such act, rape, or an attempt to commit rape, arson, or an attempt to commit arson *while under treatment* in either of said hospitals, and the Board of Commissioners of Public Charities shall investigate all the facts, and may in their discretion order the transfer of such person or persons to the Illinois Asylum for Insane Criminals, when the same shall have been opened for the reception of patients," and provides further for similar future proceedings after the organization of the asylum.

Such action would be, it seems to me, most unjustifiable. Because one's malady takes an unfavorable or dangerous turn he should not therefore be ranked as a criminal and sent among convicts. In a sense, every insane man is a dangerous man, and no one can predict that an outburst will not occur with homicide in its train or an attempt at arson. When this occurs in a hospital for the insane should it subject the unfortunate lunatic to a more rigorous treatment than when it takes place in his house? It might be reasonably thought that the legitimate business of hospitals for the insane is to take care of just this class of patients, and if they are unable to do so, that they do not fulfill their purpose. Under this provision it is possible for a superintendent through a complacent board to rid himself and his hospital of all trying and unruly patients, who would have added to the disadvantage of having been insane the disgrace of a sojourn in a convict asylum. The misfor-

tunes of innocent insane under the present regime might thereby be multiplied many fold.

To point discussion, I may resume in the following propositions:

1. That in the proper disposition of the criminal insane, criminality alone should be the criterion of classification.

2. That the criminal insane should be cared for in separate institutions.

3. That insane criminals committing capital offences should be sequestered during the period of their natural lives.

4. That insane criminals committing lesser offences should be committed for periods equal to terms of imprisonment for their crimes made and provided, and as much longer as their insanity persists.

5. That criminal insane may be liberated upon regaining their reason by the pardon of the Governor, with the consent and recommendation of an advisory board.

*ABORTION AND THE LAW.**

By JUNIUS C. HOAG, PH. M., M. D.,
Professor of Obstetrics, Post-Graduate Medical School, etc., Chicago.

"Many persons have observed and confounded the nature of things by their wretched sophistry; though an act be never so sinful, they will strip it of its guilt."

There are people whose individuality is so little marked, whose mental processes are so feeble, whose horizon of thought is so circumscribed, that their dwarfed and puny conceptions of right are formed and finished by the intellectual activity of their neighbors. They originate nothing—they reflect nothing that passes athwart the mirror of their ignoble souls. Such persons in obscure walks of life may be comparatively harmless; they may pollute their immediate surroundings, but the field of their activity is small. Responsibility increases with opportunity. The potentiality of good and of evil alike in human beings is, to a great extent, measured by the relative social importance of the individual exponent.

If there is one agent in human life more than another that is capable of infinite harm it is sophistry. Sophistry is that form of adulteration which mixes so smoothly with the true and genuine as to require, at times, the expert analyst to separate the real from the false. To the weak mind, fallacy may be sufficient to satisfy, and the mere ghost of truth leaves its imprint upon the soft wax. Sophistry finds victims of worthier material; its scope is wider, its forces more destructive.

Every man who undertakes the practice of medicine,

*Read before the Chicago Medico-Legal Society, Dec 7, 1889.

is met upon the threshold of his career by what I do not hesitate to pronounce one of the most powerful, baneful, damning combinations of temptations that can possibly assail the human heart. All that is good, all that is evil within him is subjected to the utmost pressure that can be brought to bear by the combined influences of pity, sympathy, and, sometimes, greed. Youth and beauty on bended knee, with clasped hands and streaming eyes, implores help with more devoted earnestness of purpose, with more burning reality of feeling than that with which it approaches the throne of grace. The emotions of the heart are appealed to, the processes of the mind are assailed by specious arguments, and last of all there is an *argumentum ad hominem*, unworthy though it be, that like a feast to the famished wayfarer, is held out to the struggling physician who has found little for honest and willing hands to do ; all this is heaped on to weigh down the balance of conscience, and wrest from him a reluctant consent to do murder. This temptation comes to every physician. It comes, I say, in the guise of repentance, humility, despair. Nothing is wanting to make it supreme, and woe to him who is applied to if his courage falter. The temptation, to be sure, may have taken him unawares ; his teachers may have failed in their duties towards their pupil ; the scene may be one that may never have been pictured to his imagination in its awful horrors ; or, worse still, he may be one of those pitiable specimens of humanity whose intellection has been a mere reflection from his neighbors, while his conscience has been stilled by the voice of fallacy, speciousness, or that arch-demon of all—sophistry.

To a conscience not already burned and blighted by sin, the distinction of right and wrong is not difficult

and obscure; and yet conscience may sometimes be clouded by the mists that rise from the festering swamps of crime, and it is a duty we owe to ourselves to examine the problems of daily life, and not only answer them in accordance with the dictates of conscience, but ground ourselves firmly upon the principles involved, so that our purpose may be strengthened to the end that conscience may be fortified by reason, instead of being emasculated by carelessness and the evil influences of vicious example and precept.

As physicians, our responsibilities are, in a measure, greater and more varied than those of our fellows and in some respects they are unique. No other class of men is requested to destroy human life, as the physcian often is. He is not asked to kill full grown men, but we all know how often he is besought to assist interested parties to despatch the unborn. I do not think it necessary to discuss before this body the morality and ethics of abortion. I take it for granted that you all believe the practice to be sinful as well as criminal; much less do I care to consider certain correlated questions, such as the fate of the soul of a child born before its time, although I hope that if there be abortionists who hold with certain religious creeds that the souls of the unbaptized are lost, they will not forget this rite in the midst of their employment. My present object mainly is to direct your attention to a recent apology for abortion, and to make a few comments upon the statements therein contained.

The apology to which I refer is contained in a paper by an anonymous author, read before the International Medico-Legal Congress, June, 1889, and before the Medico-Legal Society of New York, September, 1889,* In

*See Medico-Legal Journal of New York, September, 1889.

this paper the writer advocates the repeal of our laws on the subject of abortion ; constructively he also defends abortion. He does not, to be sure, commend abortion enthusiastically as a beautiful and highly praiseworthy practice, but he commends it nevertheless—to the married woman as a convenient means of restricting the limits of the family circle ; to the unmarried woman as a method for avoiding disgraceful social penalties. His "argument" is as follows :

1. Abortion is not an offense against the divine law, because it is not forbidden in the Bible.

2. It is not forbidden in the Koran.

3. All the earlier nations, the Jews excepted, practiced the destruction of the *fœtus in utero*.

4. Making abortion a crime has always been the result of statutory enactments.

5. The educated and refined married women have decided, by a very large majority, that they have a right to say, when pregnant, whether they shall allow gestation to advance or not. [In this sentiment our anonymous writer seems to be in full accord with the educated and refined wives.]

6. Abortion is a very prevalent practice. [This fact is not very clearly stated as an argument by the author ; he is not, in fact, very precise in many of his points, some of which he puts in an interrogative manner, leaving the reader to supply the answer from the general tenor of the writer's entire essay ; and accordingly, as he has been at great pains to gather statistics of the prevalence of criminal abortion, I presume he wished to include the general fact as a part of the argument itself.]

7. The number of arrests and trials for the crime (or rather the "offense") of abortion are very few in New York State.

8. Abortion is the practice of the refined and cultured class—not of the ignorant.

9. It is most common among the married, and *they* are never punished for it.

10. No lawyer, with human blood in his veins, would condemn the fair daughter of his best friend for the salvation of her honor by this means, if no other alternative presented.

11. Any father would urge his daughter to commit the crime of procuring an abortion, rather than have her face the scorn of the world.

12. No *man* would hesitate to choose abortion if placed in the dilemma of the pregnant unmarried girl.

13. The Hindoos kill many of their children born at term, if reproduction becomes too rapid to suit them.

14. The Chinese sailors are forbidden to rescue their fellows who fall overboard at sea.

I have stated the writer's so-called argument as plainly as possible. He does not state it very well himself. I have not attempted to improve upon it, nor has it been garbled at my hands ; I have merely condensed it. The direct force of the argument, if indeed it possessed any, would be in the direction of shattering all obstacles in the way of repealing our laws on the subject of abortion. But the question is one that cannot profitably be considered from a legal standpoint alone, and indeed, our writer, although evidently a lawyer (I am glad to say), does not attempt so to consider it. He considers also the divine law. Abortion, he says, does not contravene the divine law, and would not infringe the laws of men if they were framed as they should be. In fine, he means to "leave the question entirely to the moral sense of our women," who, he says, have already decided the matter in favor of abortion, by a very large

majority; and have "set at defiance the statute laws upon this subject as binding on neither their conscience nor their actions." This is most extraordinary language! Let us for a moment pursue this specious line of argument to its legitimate conclusions: A large majority of the refined and educated women feel that they have both the divine and human approval as to the legitimacy of abortion; if they do not desire to bear children, they have merely to consider the expediency of so doing; there is no more danger in destroying the fœtus; there is simply to be considered the physical danger to the woman. A large majority of the ignorant and unrefined would, doubtless, follow their refined sisters. As physicians, we know how enormous the demand for abortion would become. Untrammeled by fear of divine or human punishment, the slightest pretext would serve as an excuse for delivery from the inconveniences of child-bearing.

We well know with how few children the instincts of maternity can be satisfied when only motives of purely personal convenience are considered; and when once these instincts were satisfied what a slaughter there would be of the undesired offspring! The abortion specialist, grown skilful from much practice, would soon be able to assure his patients of the complete safety of his methods. A few such specialists could pretty nearly depopulate the largest city and they would certainly have such opportunity afforded them and could old Malthus revisit the scenes of his former labors, he would have a much more difficult problem to solve than that of proportioning human reproduction to the means of human sustenance.

The fear of disgrace and legal punishment alone suffice to greatly limit the frequency of abortion in that

they prevent not a few physicians from engaging in a very remunerative kind of work or at least serve to render them very crafty in their selection of cases. Many a physician who has yielded a reluctant consent to the continued importunities of an unfortunate woman, would be glad to be assured of complete immunity from such appeals; indeed, I believe there are very few physicians who freely and gladly lend their aid to these patients. If our anonymous writer should succeed in destroying all barriers to the procurement of abortion, I am sure the medical profession would thank him to instruct women how to procure abortion upon their own persons with their own hands and save the well-meaning physician from a temptation that is often difficult to withstand. Perhaps he might establish a training school and advertise, "abortion made easy; every woman her own abortionist; a single lesson sufficient and satisfaction guaranteed or money refunded."

It is unnecessary to pursue such a line of thought much further; the style of argument adopted by our writer does not require it. We cannot dignify his vapid utterances as arguments. They are not even sophisms. There is sublety and acumen in sophistry; our anonymous writer exhibits neither. What he calls his "argument" can appeal with no cogency to an active mind; it can only harm the unthinking—the class of people to whom I alluded at the outset. But as this is, perhaps, a somewhat numerous class, I have thought it proper to make some answer to an essay which can do no good and may possibly do some harm.

It is entirely unnecessary to refute in detail the separate points of the anonymous writer's alleged argument. Some of the statements are utterly false and the others are irrelevant. The point with regard to divine law is

sufficiently covered by the sixth commandment of Moses. As for the statement regarding "the majority of educated women,"

I do not believe that he has therein stated the truth, but on the contrary has traduced the sex, and I can only flatly contradict him and appeal to you to say whether you can conscientiously sustain me. If the writer is, as I apprehend, a lawyer, he probably knows less about the sentiments of refined women in this regard than does the average physician. As bearing upon this subject, however, I would like to have our anonymous writer read what some of the educated and refined women of this city have said. I quote from interviews held by an attractive appearing young woman reporter, who, under pretense of being pregnant, sought and importuned various physicians for assistance in her supposed extremity, among whom there were several women physicians. One of these said: "You have broken one commandment, but is it any reason why you should break two? Think of the gravity of taking a life. You have as much right to make yourself the judge of whether it should live or not after life has once begun, as you have to decide that any person you know is injurious to society and for that reason it is your privilege to put him out of the way. Two wrongs cannot make one right." Another said: "I do not kill, I try to preserve life. Have you forgotten your womanhood? I am not one of those who think in such a case the woman is more sinned against than sinning; you share the guilt and are going through the fire for it. Let the fire purify you. Don't add to your load, for I believe forgiveness would be doubtful with the guilt of two such crimes combined." A third said: "I could not commit any such wrong; it would be wronging you as well as another creature."

Such sentiments and opinions as these reflect credit upon enlightened womanhood and go a long way toward controverting such opinions as those voiced by our apologist, for they are the result of maturity of thought and large experience gained in frequent dealing with the grave questions involved. One such expression is more weighty than a hundred idle utterances emanating from women who have given the subject but a passing consideration, or whose opinions have been biased by the force of personal and selfish motives. There is much truth and cogency in the argument that it is unfair for men to sit in judgment upon women whose finer sensibilities are beyond the ken of their own coarser natures, and I am therefore very glad indeed to be able to present such expressions of feeling on the part of those who are best qualified by nature and the circumstances of their life to speak with authority. Opinions based upon false premises are of no value, and when refined women advocate the justification of abortion, they do so by founding their arguments upon the conception that the embryo differs materially in its vital and spiritual attributes from the mature fœtus; but only ignorance and thoughtlessness make such a claim as this. Plato and Aristotle claimed, indeed, that the soul did not enter the body until the period of quickening and that abortion prior to quickening was justifiable; but these are not the opinions of to-day, they are not even the opinions of our anonymous writer and they were not the undisputed opinions of any age. The medical profession may point with pride to the oath of Hippocrates which forbade his disciples to produce abortion. The intelligent woman who pronounces in favor of abortion, does so without consulting her intelligence. Moved by compassion for her unfortunate neighbor, or by self-

interest, she decides upon a basis of sentiment, not reason.

I have nothing to say regarding the practice of the ancients, of the Mohammedans, of the Hindoos, of the Chinese, or of any other nation or class of people that belittles life. We know that human life among them was and is very cheap; but the fact that they habitually commit the crime of abortion does not justify us in following their example; neither does the custom of the Feejee Islanders of consuming their fellows as food warrant us in adopting a revolting practice.

In this apology for abortion (for I can designate it by no better term), the writer's most direct argument is that the laws bearing upon it are "dead letters;" "a shallow, mocking lie underlies their very base," he says; "they are in fact dead letters and should, therefore, be stricken from the statutes." I cannot at all agree with him in this; if they do nothing else these laws certainly enable us now and then to rid the community of an infamous physician, who would otherwise have continued his abominable practices to the end of the chapter. Who shall say how much good is done, both directly and indirectly, in putting a stop to the crimes of one such an individual? A woman bent upon ridding herself of an encumbering, unborn child, is often deterred from her purpose by the words of advice and warning that come to her from well-meaning physicians. Many a woman starts out upon her quest for such aid with little idea of the full meaning of her plans; if she does not upon the very threshold of her inquiry meet a human vampire, the chances are that her better nature will respond to the words of wisdom from conscientious advisers.

In the laws concerning abortion we find an outspoken

expression of the best sentiments of society. The law is a constant monitor; the clergy and all other educators may fail in their duty to properly instruct the people, but we still have left instruction in the law. The man who would remove this barrier to crime, lays the axe at the very root of civilization, society, home. Why one should wish to do so, I cannot comprehend. Our anonymous writer appeals in feeble language to our sentiments of compassion, but he offers not one sound argument in favor of his dangerous plan. Fortunately he is not a genuine sophist and his plea is only calculated to warp the judgment of feeble minds.

*THE CORONER'S OFFICE, SHOULD IT BE ABOLISHED?**

By Clark Bell, Esq.

Mr. President and Gentlemen of the Medical Society of the State of New York: In responding to the request of your officers, to address this body upon the important topics of needed reforms in the laws of this State, regarding the office of Coroner, I take great pleasure in laying before you some of the facts and circumstances that have led to this discussion, and to explain the reasons which have led me to appeal to your powerful association for the moral support of the medical profession of the State, in a movement in which that profession has more at stake and will gain as much as the people at large, if the movement meets with that success its importance and merits demand.

At the request of the Medico-Legal Society of New York, I had the honor at its last session to submit to that body my views upon this subject.

The executive committee of that society, at its later and very recent session, appointed Prof. Frank H. Hamilton and myself to lay the subject before your society, and to ask your aid in a movement to effect the necessary changes in the existing laws.

The courtesy of your invitation is due to these circumstances, but your meeting was so close upon the session of our executive committee that I was unable to appear at an earlier hour in your session.

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* Read before the Medico-Legal Society, January, 1881.
Read before the State Medical Society, February, 1881.
Read before the International Medico-Legal Congress, June, 1889.

The whole subject of the office of Coroner, and of procedure under the laws regulating that office, and defining its powers and duties, has been made the subject of discussion, for a few years past, and has awakened public interest, both in England and the various States of the American Union.

The attention of the British public was most pointedly called to it by the admirable address of Mr. Farrer Herschell before the British Science Association, at Liverpool, in October, 1876, and public interest in this country soon followed.

The discussion was practically opened in America by an address made by Mr. Theodore H. Tyndale, of the Boston Bar, before the Department of Health of the American Social Science Association, which appeared shortly after in the Boston *Medical and Surgical Journal*, of March 1, 1877.

This gentleman, with the co-operation of a few others, and the powerful aid of the State Medical Society of Massachusetts, carried that discussion before the State Legislature in a general proposition to make a complete revolution in their system, which was substantially like our own, as inherited from our English ancestry and traditions which had handed down that strange creation of the past, the office of coroner, and what has sometimes been facetiously called "crowner's quest law."

It is not too much to say that mainly through the efforts of Mr. Tyndale, and of such gentlemen as he could bring to his aid, that discussion resulted in the adoption by the Legislature of Massachusetts, of an entirely new system, which can best be explained by the law itself, which passed on May 9, 1877, and which as follows:

AN ACT to Abolish the Office of Coroner, and to Provide for Medical Examinations and Inquest in Cases of Death by Violence.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. The offices of coroner and special coroner are hereby abolished.

SEC. 2. The Governor shall nominate, and by and with advice and consent of the council shall appoint, in the county of Suffolk not exceeding two, and in each county not exceeding the number to be designated by the county commissioners as hereinafter provided, able and discreet men, learned in the science of medicine, to be medical examiners; and every such nomination shall be made at least seven days prior to such appointment.

SEC. 3. In the county of Suffolk, each medical examiner shall receive in full for all services performed by him, an annual salary of three thousand dollars, to be paid quarterly from the treasury of said county; and in other counties they shall receive for a view without an autopsy, four dollars; for a view and autopsy, thirty dollars, and travel at the rate of five cents per mile to and from the place of the view.

SEC. 4. Medical examiners shall hold their offices for the term of seven years from the time of appointment, but shall be liable to removal from office at any time by the Governor and council for cause shown.

SEC. 5. Each Medical examiner, before entering upon the duties of his office, shall be sworn and give bond, with sureties, in the sum of five hundred dollars, to the treasurer of the county, conditioned for the faithful performance of the duties of his office. If a medical examiner neglects or refuses to give bond as herein required, for the period of thirty days after his appointment, the same shall be void, and another shall be made instead thereof.

SEC. 6. The county commissioners in each county shall, as soon as may be after the passage of this act, divide their several counties into suitable districts for the appointment of one medical examiner in each district under this act; and when such division is made, shall at once certify their action to the secretary of the Commonwealth, who shall lay such certificate before the Governor and council. But nothing herein shall prevent any medical examiner from acting as such in any part of his county.

SEC. 7. Medical examiners shall make examinations as hereinafter provided, upon the view of the dead bodies of such persons only as are supposed to have come to their death by violence.

SEC. 8. Whenever a medical examiner has notice that there has been found or is lying within his county, the dead body of a person, who is supposed to have come to his death by violence, he shall forthwith repair to the place where such body lies and take charge of the same; and if on view thereof and personal inquiry into the cause and manner of the death, he deems a further examination necessary, he shall, upon being thereto authorized in writing by the district attorney, mayor, or selectmen of the district, city or town where such body lies, in the presence of two or more discreet persons, whose attendance he may compel by subpœna, if necessary, make an autopsy, and then and there carefully reduce or cause to be reduced to writing every fact and circumstance tending to show the condition of the body, and the cause and manner of death, together with the names and addresses of said witnesses, which record he shall subscribe. Before making such autopsy, he shall call the attention of said witnesses to the position and appearance of the body.

SEC. 9. If upon such view, personal inquiry, or autopsy, he shall be of opinion that the death was caused by violence, he shall at once notify the district attorney and a justice of the district, police, or municipal court for the district or city in which the body lies, or a trial justice, and shall file a duly attested copy of the record of his autopsy in such court, or with such justice, and a like copy with such district attorney; and shall in all cases certify to the clerk or registrar having the custody of the records of births, marriages and deaths in the city or town in which the person deceased came to his death, the name and residence of the person deceased, if known, or a description of his person as full as may be for identification, when the name and residence cannot be ascertained, together with the cause and manner in and by which the person deceased came to his death.

SEC. 10. The court or trial justice shall thereupon hold an inquest, which may be private, in which case any or all persons other than those required to be present by the provisions of this chapter may be excluded from the place where the same is held; and said court or trial justice may also direct the witnesses to be kept separate, so that they cannot converse with each other until they have been examined. The district attorney, or some person designated by him, may attend the inquest and may examine all witnesses. An inquest shall be held in all cases of death by accident upon any railroad, and the district attorney or the attorney-general may direct an inquest to be held in the case of any other casualty from which the death of any person results, if in his opinion such inquest is necessary or expedient.

SEC. 11. The justice or district attorney may issue subpœnas for witnesses, returnable before such court r trial justice. The

persons served with such process shall be allowed the same fees, and their attendance may be enforced in the same manner, and they shall be subject to the same penalties as if served with a subpœna in behalf of the Commonwealth in a criminal prosecution pending in said court or before said trial justice.

SEC. 12. The presiding justice or trial justice shall, after hearing the testimony, draw up and sign a report in which he shall find and certify when, where, and by what means the person deceased came to his death, his name, if known, and all material circumstances attending his death; and if it appears thas his death resulted wholly or in part from the unlawful act of any other person, he shall further state, if known to him, the name of such person, and of any person whose unlawful act contributed to such death, which report he shall file with the records of the superior court in the county wherein the inquest is held.

SEC. 13. If the justice finds that murder, manslaughter, or an assault has been committed, he may bind over, as in criminal prosecutions, such witnesses as he deems necessary, or as the district attorney may designate, to appear and testify at the court in which an indictment for such offence may be found or presented.

SEC. 14. If a person charged by the report with the commission of any offence is not in custody, the justice shall forthwith issue process for his apprehension, and such process shall be made returnable before any court or magistrate having jurisdiction in the premises, who shall proceed therein in the manner required by law. But nothing herein shall prevent any justice from issuing such process before the finding of such report if it be otherwise lawful to issue the same.

SEC. 15. If the medical examiner reports that the death was not caused by violence, and the district attorney or the attorney-general shall be of a contrary opinion, either the district attorney or the attorney-general may direct an inquest to be held in accordance with the provisions of this act, notwithstanding the report, at which inquest he, or some person designated by him, shall be present and examine all the witnesses.

SEC. 16. The medical examiner may, if he deems it necessary, call a chemist to aid in the examination of the body, or of substances supposed to have caused or contributed to the death, and such chemist shall be entitled to such compensation for his services as the medical examiner certifies to be just and reasonable, the same being audited and allowed in the manner herein provided. The clerk or amanuensis, if any, employed to reduce to writing the results of the medical examination or autopsy, shall be allowed for his services two dollars per day.

SEC. 17. When a medical examiner views or makes an examination of the dead body of a stranger, he shall cause the body to be

decently buried; and if he certifies that he has made careful inquiry, and that to the best of his knowledge and belief the person found dead is a stranger, having no settlement in any city or town of this Commonwealth, his fees with the actual expenses of burial shall be paid from the treasury of the Commonwealth. In all other cases the expenses shall be paid by the city or town, and all other expenses by the county wherein the body is found.

SEC. 18. When services are rendered in bringing to land the dead body of a person found in any of the harbors, rivers, or waters of the Commonwealth, the medical examiner may allow such compensation for said services as he deems reasonable, but this provision shall not entitle any person to compensation for services rendered in searching for such dead body.

SEC. 19. In all cases arising under the provisions of this act, the medical examiner shall take charge of any money or other personal property of the deceased, found upon or near the body, and deliver the same to the person or persons entitled to its custody or possession; but if not claimed by such person within sixty days, then to a public administrator, to be administered upon according to law.

SEC. 20. Any medical examiner who shall fraudulently neglect or refuse to deliver such property to such person within three days after due demand upon him therefor, shall be punished by imprisonment in the jail or house of correction not exceeding two years, or by fine not exceeding five hundred dollars.

SEC. 21. The medical examiner shall return an account of the expenses of each view or autopsy, including his fees, to the county commissioners having jurisdiction over the place where the examination or view is held, or in the county of Suffolk to the auditor of the city of Boston, and shall annex thereto the written authority under which the autopsy was made. Such commissioners or auditor shall audit such accounts, and certify to the treasurer of the Commonwealth, or the treasurer of the county, as the case may be, what items therein are deemed just and reasonable, which shall be paid by said treasurer to the person entitled to receive the same.

SEC. 22. Whenever any sheriff is a party to a suit or proceeding, or otherwise disqualified to act therein, the sheriff or a deputy sheriff of any adjoining county may serve and execute all writs and precepts and perform all duties of such sheriff which he is disqualified to perform, and may serve and execute all such writs and precepts wherein any county, town, parish, religious society, or school district is a party or interested, notwithstanding he is at the time a member of such corporation.

SEC. 23. Whenever a vacancy occurs in the office of sheriff of any county, the senior deputy sheriff in service shall perform all the duties required by law to be performed by the sheriff, until the office of sheriff is filled in the manner required by law, giving bond as

now required by law of sheriffs. And in case of such vacancy, the deputies of the sheriff vacating the office shall continue to have and exercise the power of deputy sheriffs until said office is filled as aforesaid.

SEC. 24. Sections seventy-five, seventy-six and seventy-seven of chapter seventeen, and section one hundred of chapter sixty-three, and section eighteen of chapter one hundred and sixty-three of the General Statutes are hereby amended by substituting for the word "coroner," wherever the same occurs, the words "medical examiner," and for the word "coroners" the words "medical examiners." The second clause of section fifty-two, and sections seventy-four, seventy-eight, seventy-nine and eighty of chapter seventeen of the General Statutes, chapter one hundred and seventy-five of the General Statutes, chapter one hundred and thirteen of the acts of year eighteen hundred and sixty-one, chapter one hundred and seventy-two of the acts of the year eighteen hundred and sixty-two, chapter twenty-eight of the acts of the year eighteen hundred and sixty-four, chapter two hundred and forty-one of the acts of the year eighteen hundred and seventy-one, and chapter one hundred and fifteen of the acts of the year eighteen hundred and seventy-six, and all other acts and parts of acts inconsistent herewith are hereby repealed.

SEC. 25. For the purposes of the appointment and qualification of medical examiners and the action of the county commissioners herein provided for, this act shall take effect upon its passage, and it shall take full effect on the first day of July next.

The radical changes made by this act in Massachusetts were three-fold.

1. The abolition of the office of coroner;

2. The dispensing wholly with juries on the preliminary inquiry in this class of cases as unnecessary; and

3. The adoption of a new system, by which a competent medical man took charge of the medical part of the investigation, and an arrangement for proper officials to take charge of the legal and statutory aspects of such cases, where the death was in any wise proper to be made the subject of a legal inquiry, preliminary to the final trial of the accused, after indictment.

Under this change, Massachusetts appointed medical examiners for the several districts of the State, who took

charge of the new system, and were appointed by the Governor and council; their labors collected by the Medico-Legal Society of Massachusetts (composed wholly, so far as active members were concerned, of these officials), furnish an admirable view of the results of a peculiarly fortunate attempt in a sister State to provide an intelligent and practicable substitute for an acknowledged faulty system, quite as bad and cumbersome as our own.

A comprehensive view of the subject can best be had by examining briefly the leading objectionable features of our present system before we need consider how we can best remedy them.

THE PRESENT STATUTE POWER—DUTIES OF THE CORONER'S OFFICE.

In this State the office of coroner is elective, and held for three years. Coroners are not required to give bonds except when acting as sheriffs, when they may be required to do so.

Four coroners are elected in each county in the State, and in the city of New York the mayor is empowered to designate one to each senatorial district of that city, and assign him to duties therein. Coroners must be residents of the county in which they are elected. They may be removed for cause by the Governor.

They are authorized to arrest those who disturb religious meetings; to take charge of wrecks and wrecked property, to take measures for the preservation thereof; and for its delivery to the proper owners.

They are authorized to investigate into the origin of fires, by an inspection and inquest, with a jury, with proceedings like in most respects the inquests in case of sudden death, with power to arrest, in case there is

found to have been arson, or an attempt at arson, committed.

Whenever a coroner receives notice that any person has been slain, has suddenly died, been dangerously wounded, or found dead under such circumstances as to require an inquisition, the coroner is required to proceed to the place where the body lies, to forthwith summon a jury of not less than nine nor more than fifteen, to appear forthwith to make inquisition concerning such death or wounding.

The coroner swears in the jury, summons witnesses to appear before them, presides at the inquest, swears the witnesses and reduces their testimony to writing, which is subscribed by the witnesses.

It is the duty of the coroner to summon some surgeon or physician to appear as a witness on such inquest.

The jury then inspect the body, hear the testimony, and deliver to the coroner their inquisition in writing, which the law requires shall contain their finding, as to

1. How and in what manner, and when, and where the person so dead or wounded came to his death or was wounded; and

2. Who such person was, and all the circumstances attending such death or wounding; and

3. Who, if any, were guilty of the same, either as principals or accessories, and in what manner.

The finding or inquisition of the jury, with the evidence of the witnesses, the coroner is required to return to the next criminal court of record in the county.

The coroner has power, on the finding of the jury that a crime has been committed, to bind over the witnesses to appear, and to issue warrants for the arrest of accused or suspected persons.

In case of the absence or inability of the coroners to

act, in the city of New York, any alderman or special justice may act in his stead, exercising the same powers and duties as the coroner. Special legislation has been enacted, from time to time, for the city and county of New York, making the practice there different from other parts of the State, and containing many objectionable provisions, mixed with much that is good and commendable.*

The law makes it the duty of coroners to hand over to the treasurer of the county all moneys or valuables found on the bodies of persons on whom inquests have been held, which have not been claimed by the legal representatives within sixty days after the inquest has been held.

The law makes no requirement as to professional knowledge or skill for the incumbent of the office, and does not require the coroner to summon a surgeon or physician who has superior knowledge as to the matters involved, leaving it wholly in the discretion of the coroner as to what surgeon or physician he may call, except in the city of New York, and calls him when summoned simply as a witness and as other witnesses are summoned before the jury.

The Governor has power to remove for misconduct in office on charges.

By analyzing our present system we will observe that if the object of an inquest should be to detect the existence or commission of crime in cases of death by violence, or sudden death, our law, as now constituted, is not well adapted for the purpose.

1. Of what practical good is the verdict of a coroner's jury on an inquest in such a case?

Is it binding, or even influential on the accused, on

* See "Note" at end of Address.

the grand jury, or on the final trial? Everyone knows that it is not.

It is quite true to say that it is a useless and unnecessary expense to summon jurymen in such cases, and in no case can it help the State or the accused on the final trial, which must still occur before conviction.

We cannot be too jealous of the right of trial by jury, but in all cases under existing law two juries must agree before any person can be convicted of crime, without counting the coroner's jury, viz: the grand jury which presents the indictment, and the jury on the trial of the accused after indictment; so that the abolition of the jury on the preliminary inquiry, and a change as to who shall make the inquest in its stead, is not in any sense true an infringement upon the right of trial by jury, which in all cases would exist if the proposed change was made.

It is a useless hardship on the citizen to be liable to be called on a coroner's jury, and the work of investigation can be done much better and easier by competent medical officials to investigate the medical questions involved, holding them responsible for the work, carefully providing for a thorough and practical examination; and by proper judicial officers, that part of the business which requires legal proceedings, adjudication or decision as to whether a crime has been committed.

There can probably be no more startling evidence of the utter uselessness of a coroner's jury, than the statement of this fact: That whatever may be the verdict in a given case, the subsequent indictment, trial, and entire judicial proceeding is absolutely independent of it, and proceeds as if the coroner's jury had never acted at all.

The object of an inquiry when a sudden death has oc-

curred, should be to inquire into the cause of the death.

Did it proceed from natural causes? If not, from what cause, and has a crime been committed? That is, and should be, the full scope of such an inquiry.

That such an investigation is proper, preliminary to a formal accusation is certain, because it determines, or should do so, that no trial is necessary, if the death is not by violence or is due to natural causes; and it is due to all that an intelligent and careful scrutiny should be given by competent persons, in all cases, whether doubtful or not at first.

Whether death has resulted from other than natural causes is usually a matter to be determined by a careful, competent, and thorough medical examination.

Whether a crime has been committed is not a medical question; it is rather a legal one.

What is, therefore, most needed, at once, in all such cases, is a formal and careful medical examination, by a perfectly competent medical man, upon the first inquiry, and to decide upon the facts by a careful scientific inquiry as to the cause of death.

The Massachusetts system provides an officer for that duty, and requires him by the terms of the law to be "an able and discreet man, learned in the science of medicine," to be even eligible to hold the office.

The law compels this learned and competent officer to examine the body; and if on such examination, and after personal inquiry into the cause and manner of the death, he deems further examination necessary, he shall, on the written authorization of the district attorney, or other competent judicial authority, proceed in a specified careful way to make an autopsy in the presence of at least two discreet persons, and then *and there to carefully reduce to writing every fact and circumstance tend-*

ing to show the condition of the body and the cause and manner of death, together with the names and addresses of said witnesses, which he shall subscribe, and for which he is, of course, officially and professionally responsible.

If on this inquiry this officer, after such an examination, autopsy, and certificate, shall be of the opinion that the death was caused by violence, he is commanded to notify the competent judicial authority, and file his report and certificate with the court, who shall thereupon proceed to investigate whether a crime has been committed—which is a legal or judicial question—under certain provisions of the law, and under due legal forms, with all the force and effect of a judicial proceeding.

Under our present system the coroner can call in any medical man, whether he is skilled in the examination required or not, in most counties of the State.

What is the necessity or value of a jury's opinion, or verdict, upon the medical question as to whether the death was by violence or from natural causes; or, on the second question, as to whether a crime has been committed, which is a judicial question; and how much more valuable would be the carefully-prepared written statement and autopsy of the competent medical man, as a permanent record in the case; or the finding of the competent judicial officer, upon evidence, in case and where it is held that a crime has been, or even probably has been committed, with the careful record of the facts and circumstances attending the death?

The opinion, report and autopsy of the medical man upon the medical question is valuable throughout the whole case, and in all subsequent phases of it.

The report, evidence and finding of the judicial officer, as to whether a crime has been committed, is also of

value, but the verdict of a coroner's jury on either question, under our existing system, seems practically absurd, and experience has shown it to be both meaningless and valueless. Then why continue it?

There is no race of men more wedded to their traditions, past, and precedents than the Anglo-Saxon and their descendants. We inherit that peculiar trait of English character which makes us cling to the things and ways our fathers had and did before us. We are the last to see the absurdity of an old thing, gray with age, though quick to find it in a new.

With the venerableness of the office of coroner we have little to do, but it is a source of absolute wonder how such an absurd and valueless office for the detection of crime should have been continued through all these centuries.

So far as his duties in case of acting in the place of the sheriff, or against the sheriff, or in regard to matters of wrecks, deodands, and forfeitures to the crown, which were his ancient duties, these are now obsolete, except in regard to the sheriff, and powers in certain other cases which would be wisely placed in some one officer in a county, but beyond that, there is no use or necessity for such an officer as the statute makes our present coroner, and the progress of events and civilization demands for us a change in this part of our system.

Before proceeding to examine into the system and practice of other countries, it might be well to ask you to look at some of the fatal defects in our own.

1. There is no existing provision compelling a careful and proper medical examination and autopsy, the absence of which, in doubtful and difficult cases, might result, and frequently does, in the entire defeat of justice.

If an autopsy is to be taken at all, in a given case, it is usually of great importance that it be promptly done, and by competent medical authority.

It would not be enough that our system provided for an autopsy. It should in all cases, when the circumstances seem to require, compel it, and provide how it should be made, and what it should certify.

2. Again, any citizen is now eligible to the office of coroner, and no precaution or safeguard is had under the law to secure an officer who is either competent to conduct the medical examination or the legal inquiry.

Most lamentable cases of ignorance of this official fill our books, and occur on all hands in practice.

The history of criminal jurisprudence in our country, as well as of England, is full of cases where most serious consequences result from the inexperience and ignorance of incompetent persons taking charge of the medical investigation as to the cause of death, or the later legal inquiry whether on the shown medical facts a crime has been committed.

In extremely doubtful cases where crime has been committed, as, for example, by poisoning, especially where very difficult to positively detect, the present system of inquest would, or might, actually prevent detection and subsequent conviction, by not having the proper medical examination and autopsy, which, if properly taken would have insured detection.

The heart, lungs, stomach, intestines, and liver frequently are decisive witnesses in such cases; and how many times would such an examination and autopsy have prevented the terrible consequences of an innocent person, accused of poisoning by suspicious or jealous relations or enemies, being placed on trial, and, as

we know, sometimes actually convicted of a crime they never committed or contemplated.

These delicate, difficult, and doubtful cases, where nothing but the highest character of scientific knowledge and critical examination at the time of the occurrence would detect the crime, are of course lost, and the guilty escape; and these cases the books do not show, because the real facts and circumstances do not appear, and the real record is never made.

3. The existing statute, in failing to secure a competent officer to conduct the medical examination, thus shown to be indispensably necessary in every case where a crime has been committed, or even to determine whether the death is probably from natural causes, is as faulty in making no provision for a competent person to conduct a necessary legal inquiry, as to whether a crime has been committed, in those cases where the death is clearly from violence, and not from natural causes.

The existing statute throws this inquiry upon a jury, who, in the nature of things, cannot determine it judicially, and who can only conduct an inquiry upon competent evidence, with an official presiding who is not required by the law to be competent to conduct such an inquiry.

And we have gone on thus for centuries, taking the verdict of coroners' juries in these cases—absolutely valueless judicial farces, oftentimes attended with lamentable and fatal results.

In the case of William Simmons, charged with homicide, the coroner's jury, on a full hearing, pronounced the killing justifiable homicide, the prisoner having been assaulted with a deadly weapon, and having defended

himself with a knife, killing his assailant while in a death struggle on the floor.

The court, however, on the trial, held against the use of a knife, even in such an extremity; and Simmons was convicted. But the Governor pardoned on the merits, though the sentence was nearly out. The verdict of the coroner's jury had not the slightest legal force or effect.

Provisions should be made, therefore, in the law regulating such investigations, for a proper judicial proceeding before a competent court and officer, which should be a proper, legal and necessary step toward the trial itself.

This is secured under the new Massachusetts law by directing the proceeding to be taken before a justice of the district, police, or municipal court in which the body lies, or a trial justice, which is conducted for the State by the district attorney of the county, or by some person designated by that officer.

4. If the existing law could be amended by dispensing with a jury in such cases; providing for a competent medical officer to conduct the preliminary examination under distinct methods, that would secure a record of these necessary medical facts, to answer fully the medical inquiry, with a proper provision for examination before a competent judicial tribunal in case the medical preliminary examination made that necessary, or probably so; it would be a great gain to our present system, even if we called the medical officer by the old name of coroner. But there are so many absurdities under that system that it would doubtless be wiser, if it was decided to make a change, to abolish the office of coroner altogether and provide for the new system by appropriate legislation, attaching those duties in respect to sheriffs,

wrecks, etc., to some other officer, as, for example, the district attorney in counties, or the county treasurer; or perhaps for constitutional reasons to leave the coroner to discharge them when occasion arose.

It may be well in such an inquiry to examine the laws of other countries and their practice under them.

FRANCE.

In France two distinct and separate officers take charge of all such investigations.

The legal officer, the *procureur du roi*, or, as he is now called, the procurer or attorney of the republic, analagous in some respects to our district attorney, proceeds to the place where the dead body is found, makes the investigation, summons and examines witnesses, and reduces their evidence to writing, which is subscribed.

He has large power granted him as to seizing articles or papers, if connected with crime, and can restrain suspected persons from leaving the premises or the neighborhood. He has power to use experts or clever detectives, which is a part of the French system for the detection or discovery of crime. He is responsible for the case as a legal inquiry, and for all the legal questions involved.

The medical side is in charge of a medical officer, chosen for his superior and excellent medical knowledge, with almost equal powers, supreme as to the medical examination, inquiry, and all medical questions involved; and this officer—and sometimes two—is connected also with the subsequent prosecution of the criminal when a crime has been committed, or the legal officer decides that one has been committed.

The admirable writings of Emile Gaboriau well describe the powers, duties, and responsibilities of these

various officers, and the excellent working of what may be called the French system, in such works as "File No. 118," "Monsieur Le Coq," "The Widow Lerouge," and other admirable works from his prolific pen.

I have thought it would interest the thoughtful student of this subject to give a *resumé* of the laws of France recently adopted upon this subject, in which I have received valuable assistance from my brother and colleague, Mr. Fred. R. Coudert, of our Bar.

The investigation of crimes, such as murder, and the preliminary investigation to establish the culpability of the murderer in case of violent death, in France, is one of the duties of the attorney of the Republic.

The duties and powers of the attorney of the Republic are defined in the Code of Instruction in Criminal Proceeding, Book I., Chapter IV., Section II., Articles 29 to 47, included. Among these articles, the following have especial reference to the investigation and proof of crime and the arrest of the guilty persons.

"ART. 32. In all cases of *flagrante delicto*, when the act shall be of such a nature as to entail punishment of a degrading or ignominious character, the attorney of the republic shall himself proceed to the spot, without any delay, for the purpose of drawing the official reports which may be necessary to establish the evidence of crime, its condition, that of the surroundings, and to receive the declarations of the persons who shall have witnessed the deed, or who shall be able to give information thereon, etc.

"ART. 33. The attorney of the republic may also, in the case of the preceding article, summon such of the relatives, servants, or neighbors, as are able to give information upon the fact. He shall receive their statements, which they shall sign. The statements made in conformity with the present and the preceding article, must be signed by the parties, and in case of refusal, mention of it is to be made.

"ART. 36. The attorney of the republic shall seize the weapons, and all that shall appear to have been used, or have been intended to have been used for the commission of the crime, or the offence, as well as all that may have resulted therefrom, and, in fact, all that may throw light on the subject; he shall ask the accused party

to account for the things so seized, which shall be shown to him; he will draw up an official report, which shall be signed by the accused, or mention shall be made of his refusal to do so.

"ART 40. The attorney of the republic in such a case of *flagrante delicto*, and when the crime shall be of such a nature as to entail a degrading or ignominious punishment, shall arrest the accused persons present, against whom strong presumption may be entertained.

"If the accused is not present the attorney of the republic shall issue an order to compel him to appear. This order is called 'Mandat d'amener.' The information alone does not constitute sufficient presumption to authorize the issuance of such a warrant against a domiciled person.

"The attorney of the republic shall at once examine the accused brought before him.

"ART. 42. The official reports of the attorney of the republic, in pursuance of the preceding articles, shall be made and drawn up in the presence, and shall be signed by the commissary of police of the 'Commune' in which the crime or offence shall have been committed, or the mayor or the assistant mayor, or by two citizens domiciled in the same 'Commune.'"

"Nevertheless, the attorney of the republic may draw up the official reports without the assistance of witnesses when there is no possibility of obtaining them at once.

"Each sheet of the official report shall be signed by the attorney of the republic, and by the persons who shall have been present, in case of their refusal or inability to sign, mention shall be made thereof.

"ART. 43. The attorney of the republic shall be accompanied, if necessary, by one or more persons who may be presumed by their trade or profession to be capable of appreciating the nature and the circumstances of the crime or offence.

"ART. 44. If a violent death shall have taken place, or a death from unknown causes, or under suspicious circumstances, the attorney of the republic shall be assisted by one or two physicians, who shall make their report as to the cause of the death, and the condition of the corpse.

"The persons who shall be summoned in the cases provided by the present and the foregoing articles, shall before the attorney of the republic be sworn to make their report and give their opinion according to honor and conscience.

"ART. 45. The attorney of the republic shall, without delay, transmit to the examining magistrate the official reports, instruments, documents, and weapons drawn up or seized in pursuance of the preceding articles, to be proceeded with as set forth in the chapter entitled, 'Of Examining Magistrates;' and in the meanwhile

the accused shall remain at the disposal of the judicial authorities, so that he can at any time be arrested.

"ART. 47. Except in the cases provided for in articles 32 and 46, the attorney of the republic, upon being notified by information or otherwise, that a crime or an offence has been committed in his district, or that a person charged with the commission thereof is in his district, shall call upon the examining magistrate, to order an inquiry, and even, if necessary, proceed to the spot in order to draw up all the necessary official reports, as will be found described in the chapter entitled, 'Of Examining Magistrates.'"

When the papers have been transmitted by the attorney of the republic to the examining magistrate, the latter holds an investigation. His powers and duties are defined in the code of Examinations in Criminal Proceeding, Book F, Chapter VI., Articles 55 to 90.

The following articles in particular explain the mode of proceeding in case of murder.

"ART. 59. In all cases reported as *flagrante delicto*, the examining magistrate may directly, and of his own authority, perform all the acts attributed to the attorney of the republic, by observing the rules defined in the chapter 'Of Attorneys of the Republic and their Substitutes.' The examining magistrate may require the presence of the attorney of the republic, without any delay, however, as to the operations defined in said chapter.

"ART. 61. Except in cases of *flagrante delicto*, the examining magistrates shall make no investigations, and take no proceedings without informing the attorney of the republic thereof, who may, moreover, require this information to be furnished him at all stages of the investigation, subject to the obligation of returning the papers within twenty-four hours.

"The examining magistrate, however, if there be occasion for it, may issue the warrant to produce the person, and even the warrant of commitment, without its being necessary that they have been preceded by the legal conclusions of the attorney of the republic.

"ART. 62. Where the examining magistrate proceeds to the spot, he shall always be accompanied by the attorney of the republic, and the registrar of the tribunal.

"ART. 71. The examining magistrate shall summon before him such persons as shall have been indicated by information, by complaint, by the attorney of the republic, or otherwise, as having knowledge of the crime or offence, or of the circumstances.

"ART. 87. The examining magistrate shall, if required to do so, and even of his own accord, proceed to the domicile of the party

charged with the crime or the offence, in order to make a search for the papers, effects, and generally, all articles which shall be deemed necessary for arriving at the truth.

"ART. 88 The examining magistrate may likewise proceed to such other places as it is likely that articles like those mentioned in the preceding section shall have been concealed."

Articles 91 to 112 regulate the rights of the examining magistrate to issue orders to apprehend (*comparution*), orders of commitment (*depot*), orders to produce the person (*d'amener*), and orders of arrest (*d'arrét*).

Articles 113 to 126 regulate provisional release and release on bail.

Articles 127 to 136 regulate the orders to be issued by the examining magistrate when the investigation is terminated.

"ART. 133. If the examining magistrate considers the deed as one entailing punishment of a degrading or ignominious character, and that the evidence against the accused is sufficiently established, he will order that the papers in the proceedings, the official report establishing the nature of the offence, and a list of exhibits, shall be transmitted without delay by the attorney-general of the 'Cour d'Appel,' in order that they may be used as specified in the chapter 'On Indictments.'

"The exhibits shall remain with the court where the examinations took place, with the exceptions set out in articles 228 and 291."

The indictment is regulated in Book, II., Title II., Chapter I., Articles 217 to 250.

The trial before the Assize Court is regulated by Book II., Title II., Chapters II., III. and IV., Articles 251 to 380.

And the jury is formed and works under the same code, book, and title, Chapter V., Articles 381 to 406.

GERMANY.

The present law of the German Empire, adopted October 1, 1879, being the code of criminal procedure (*Straf-Process Ordnung*) regulates proceedings for this class of cases for all Germany to-day.

A judicial officer called the district attorney (*staats-anwalt*) has charge of these proceedings. He is clothed with powers as full as those of our district attorney, of a committing magistrate, or a police justice. He is entitled to ask information from all public authorities, who are bound to assist him in his official duties. The police are his subordinates, and under his control in all respects in the investigation of crime.

The police authorities are also bound on their own account to investigate supposed crimes, and report to this officer, especially in all cases of sudden death or death by violence; and in these cases no interment of the body is allowed until after the consent has been obtained of the district attorney or the competent court.

There is no coroner in Germany, nor any analagous officer; nor any jury on the preliminary examination.

There are judicial district physicians or surgeons regularly appointed who are selected for their special training and fitness for the duty. They are summoned by the district attorney, or by the police authorities, and examine the body, make the autopsy, and conduct in all respects the medical examination.

The code prescribes a form or set of special rules for the conduct of the judicial examination of the body (*gerichtliche leichenschau*), which occur under a special order of the court; and the code also provides how and in what cases and manner experts may be called in by the district attorney or the police magistrate.

The grand jury and its indictments as in our system, is unknown in Germany.

If the district attorney, after the preliminary examination and inquisition has been made, and the evidence and medical examination and report made, believes that a crime has been committed, or that probable cause ex-

ists for such a belief, he brings on the trial by a motion to the competent court, and if the court, on such motion, after hearing the case, believes that sufficient reasons are presented, it orders a preliminary judicial investigation (*gerichtliche voruntersuchung*), which is conducted before a justice, with the assistance of the district attorney, at which the accused is heard, and is represented by counsel if he desires. The result of that preliminary investigation usually determines the matter. If the district attorney desires to press it, he moves it on; if not, the case is usually dropped.

SCOTLAND.

Scotland has gone off from the English system, and an officer analagous to the French *procureur du roi*, called a procurator fiscal, performs the duties of the preliminary inquiry investigation, much as if our district attorney was charged with the preliminary inquiry, with large powers of taking testimony and making arrests, but acting without a jury.

TURKEY.

In Turkey, if a death occurs in a town where there is a foreign consul, the deceased not being a native of or citizen of Turkey, the consul or legation of the nationality of the deceased takes charge of the investigation, in such manner and form as each consul chooses, acting for his own country.

If it is a citizen that dies, there is no investigation, nor any officer even analagous to our coroner.

If the case presents aspects which justify an official or other interference, the police take it in charge. They conduct the inquiry, and investigation as a judicial proceeding, calling witnesses, experts, and medical aid as they see fit.

These deaths are regarded more lightly in Turkey than in most European countries, and nothing resembling our inquest is known.

GREECE.

In Greece the system in force is almost identical with that of France.

An officer analagous to the French *procureur du roi* takes charge of the legal side and conducts the proceedings.

A medical officer takes exclusive charge of the medical question and examination, and detectives or experts trained to the business are subject to the call of the prosecuting officer.

RUSSIA.

The whole proceeding is in Russia placed in the charge of a judicial officer known as Judge of Instruction. He is an officer of the crown, appointed in and for each district by the central governor, or council of the province or state.

He repairs to the place and takes charge of the body of the deceased. Has power to seize all papers and correspondence, and put seals on the private papers and boxes. He summons and examines all witnesses, takes the evidence, reduces it to writing, calls experts, and examines and directs their action. He is clothed with large powers, and may arrest, and even place in close confinement an accused or suspected person.

He stands for the state as an accuser, and yet is bound in honor and conscience to act as a judge, and to act impartially for the accused.

The medical questions and the medical side of the case are in charge of a physician or surgeon who is a sworn crown officer, with a salary. He acts in conjunction with the Judge of Instruction, but independ-

ent of him. He is bound to make an autopsy, if any suspicion or doubt exists as to crime.

He conducts the autopsy, and carefully reduces his examination and conclusions to writing, which he furnishes to the court, and also to the central medical council or board, held in every province at the seat of the government, who have a power of review of the same, in case doubt exists.

Since the year 1864, in each village of Russia, certain citizens are designated by the mayor of the village, whose duty it is to attend such cases at the summons of the *Juge d'Instruction*, aid him in the investigation by their inquiries, give evidence of the known facts, search for evidence in doubtful cases, and help so far as they can in the investigation.

They are not, however, clothed with any powers. They make no finding nor report, but are required by law to attend, and stand as a sort of watch to the proceedings, aiding the officials of the crown in the discharge of their duties.

DENMARK.

In Denmark the State is divided into several large districts, some seventeen in number. These are subdivided into smaller districts, or counties, in each of which a judicial officer, analagous to our county judge, is appointed, who has power over such cases.

He acts without a jury, possesses the powers of a coroner and police magistrate combined, is both prosecuting officer and judge, and if the cause proceeds to trial finally, it is before this officer.

No counsel is allowed on the preliminary investigation, even if a person is accused. This officer can

make arrests, but the accused can only be held twenty-four hours without a hearing.

In the seventeen larger districts there is a judicial officer who has superior jurisdiction over the county officer, to whom the latter reports all the proceedings.

If the district judge orders the trial to proceed, it goes on before the county judge; if not, it is usually abandoned.

In each county is also a medical officer, appointed by the crown, with a salary, who examines the medical questions on the call of the county judge, conducts the autopsy and scientific examination, reports in writing to the county judge, and also to the central bureau of eminent physicians, called the Royal Bureau of Health. This bureau, in each district, reviews his action, and in doubtful cases take action, as in cases of poisoning or insanity, their report being made to the county judge, in writing, is usually decisive, of any issue they pass upon.

The county medical officer is first consulted on all medical questions, and is supreme except as to the review of his action by the royal health bureau.

The district officer frames the indictment, if one is found, and orders the trial to proceed before the county judge. An appeal lies first to the superior court in each district; then to the supreme court of Denmark.

In reaching a conclusion satisfactory to ourselves it may not be uninteresting to pursue our inquiry into the

EXPENSES OF THE PRESENT SYSTEM, AND ECONOMY OF THE CHANGE.

If it be true that the verdict of a coroner's jury has no practical value, in determining the guilt or innocence of an accused person, it may well be said that the cost of

summoning the jury, and the fees and expenses of the jurymen would, of course, be wholly saved by its abolition.

In the inquiry before the legislative committee of Massachusetts, a carefully prepared statement was made as to the expenses of the then existing system and that under the one finally adopted, and it was clearly shown that the saving in expense to the State, not taking into account the time of the jurymen, was fully thirty-three per cent. in favor of the proposed change.

Mr. Tyndale, in answer to my inquiry as to the saving to the State of Massachusetts on the trials made there, under the change, reports that he had gathered facts enabling him to make a careful statement of the expenses attending coroner's inquests throughout the State of Massachusetts under the former law, and also the workings of the new system, and that the saving to the Commonwealth in jurors' fees, constables' fees for summoning jurors, amounts to full one-third of the former expenses, while the results of the scientific inquiries now made are of great value, as the testimony is secured exactly and early in the proceedings before time and decay have made it difficult or impossible to obtain it; that where the State of Massachusetts formerly paid about twenty thousand dollars annually for scientific work under the old system, with which absolutely nothing was done—the money being virtually thrown away—it now gets its first important steps taken in criminal investigations, attended to by thoroughly competent men for about one-third less than before.

There can be no higher authority on this inquiry in that State than Mr. Tyndale, nor one who has more reliable sources of information; but on the occasion of my recent visit to Boston, as a delegate from the Medico-

Legal Society of New York, to the annual meeting of the Massachusetts Medico-Legal Society, I took the opinion of Dr. Alfred Hosmer, then the president of the society, and later, Dr. Robert Amory, now occupying that chair, both medical examiners under the new law, and thoroughly familiar with the statistics upon this question, and both place the economy to the State in the actual saving of expenditure at thirty-three and one-third per cent. in favor of the new system.

There is one other consideration having an important bearing upon this branch of the inquiry that was not considered by these gentlemen, or embraced in their estimate of saving. It is this: Under the old system. if scientific evidence was called by the State, autopsies made, or chemical evidence taken on the preliminary inquiry, it was of no value whatever on the final trial. If now taken, as indeed it must be, if necessary, it is of value; it has its direct relation to the case, is an important and valuable part of its record and history; and in these cases, when medical experts are called, the saving under the new system would be something great in any case, and in all doubtful and obscure ones.

It may, I think, therefore be affirmed in this discussion, without fear of contradiction, that a change in our law would be a very great economy to the State in both these important respects.

There have been some suggestions as to a chief officer and subordinates, which I regret to have heard made. They come from a too superficial view of the subject.

In the nature of things the officers throughout the State must needs be county officers; and they should have, of course, co-ordinate powers.

If in our change we do not provide for entirely com-

petent and trained men for the work we had better not change.

An examiner-in-chief who should have control for the State, with assistants for the counties, would be simply an incongruity, and a failure.

It needs the same competent person to provide for all the work being well done, in one district that it does in in another.

There is no country in the world that attempts such a plan. Co-ordinate powers to the officers, executing those within defined districts, would be the only successful plan.

Again, let it not be forgotten that under the Massachusetts law the medical examiner takes no part in the judicial branch of the inquiry. That is placed in well-defined judicial hands.

It would be as faulty to place the legal side of such a proceeding in the hands of a merely medical man, as it would to provide for a lawyer to make an autopsy, or to certify whether the death was probably due to natural causes.

A competent physician would, even under our present law, be a much better coroner than the ordinary officer, because if trained in the branch of medical knowledge involved, he would be more competent to discharge the duties involved in that part of the inquiry. But he would not be as competent as even our present coroner to conduct the other duties of that office, by reason of his education, which unfits him for judicial duties.

The reforms needed in our system may be summarized as follows:

1. The abolition of the coroner's jury, or of any jury on the preliminary investigation as useless, expensive, and not calculated to discover or detect the commission

of crime, if one has been committed, or the best method of determining whether the death was by violence or from natural causes.

2. Such a change of our law, as shall place the examination of the preliminary medical inquiry, whether the death is due to natural causes or to violence, in charge of a medical man of special knowledge on such subjects, who shall be obliged to conduct an autopsy, with power to call witnesses, and to make scientific record of the facts and circumstances of the case substantially like that provided under the law of Massachusetts.

3. The proper method of conducting the legal inquiry as to whether a crime has been committed, if the report and examination of the medical examiners make it necessary, and defining the proper officer to conduct, and the tribunal to hear and decide it.

The district attorney of the county, or some person to be designated by him, would probably be a perfectly safe provision in our State.

Courts of justices of the peace in various counties, and of the police justices in the cities, would be the proper judicial tribunals under our system. As constituted, they are competent to take charge of such proceedings, which should, of course, be a legitimate preliminary step for the discovery and punishment of crime in all cases.

4. If a medical man was not selected to take charge of the preliminary inquiry, as in Massachusetts, and the whole inquiry placed, as in France, in charge of a legal officer who should be of the degree of counselor at law; then, that competent medical men, selected by reason of their training and skill in this class of cases, should be designated by competent authority, such as the county judge in counties, and the chief justices of the supreme, superior and common pleas courts in cities, of sufficient

number to do the work, acting upon a salary, and sworn, as public officers, to act upon their best judgment, honor, and conscience in such cases, when called by the district attorney or other officer conducting the legal proceedings.

For practical work I believe the better change, considering our system, would be the adoption of the Massachusetts plan. It has been tried there, it works well, it could easier be carried into effect, would, I think, give greater public satisfaction, and be of greater public good.

The important obstacle is the question of how the medical examiners should be selected.

Under our system how could we so frame the law as to have these officers selected by reason of their professional fitness for the place, and without reference to political considerations?

If thought dangerous to make the office elective here, it would certainly be safe to have them appointed, either by the governor, by and with the consent of the senate, or by the county judges in the counties, and the chief justice of the common pleas in this city, an office analagous to that of county judges in counties.

If the appointments were made by the governor and senate, there might be danger of political considerations influencing the appointments, rather than the peculiar fitness of the man for the office, which, perhaps, might be guarded against in the law itself to some extent.

The success of the Massachusetts plan has been due to the care the governor has taken there to select men for their peculiar fitness for the office, and wholly ignoring the political affinities of the men selected.

Governor Long, of Massachusetts, is entitled to the highest praise for his action in this respect, and his pre-

decessor also; and if we could be sure of similar action by our executive, I know of no safer way than to allow the executive to appoint; but, with past experience, it would doubtless be safer to give the appointment to the county judge of counties, and provide in the law that they shall be made without regard to political considerations, and only by reason of the competency of the officer, by his education and training for the office.

THE CONSTITUTIONAL QUESTION.

There are those who seek to avoid the discussion of this question upon its merits, on the ground that the coroner is an officer created by the constitution, and cannot, therefore, be abolished.

There are two ways of regarding this objection:

1. If it were true that the defects of our present system could only be remedied by an amendment to the constitution, it would be a perfectly proper subject for discussion to inquire whether the public good would be subserved by such a change, and then take the proper course to change the constitution by amendment.

Our duty now is to inquire whether a change is desirable, and to carefully investigate the subject on its merits; to examine how the Massachusetts system works; to examine such proceedings in other countries; and to determine what is best for us in this State to do in such matters. The people will never find difficulties they cannot surmount, if they decide to change, in any question, even if it is constitutional.

2. To my mind, however, no amendment to the constitution is necessary to effect the proposed reforms.

While the constitution provides for the election of four coroners in each county of the State by the people, the powers, duties, and all the authority of those officers are

such as are given by the legislature in laws enacted from time to time upon the subject.

It is absolutely necessary that some officer should be designated to act as sheriff in cases where the sheriff was incompetent to act, by reason of being a party.

The provision as to wrecks, investigating into the cause and origin of fires are good provisions, and the coroner's office might retain to take charge of these when occasion arose.

Legislation which took from the coroner all control of, or connection with cases of death by violence, or sudden death, providing new officers and methods, could be passed without conflicting with the constitution, by a simple repeal of certain existing statutes, and the passage of acts conferring these powers upon officers to be appointed by competent authority.

The abolition of the coroner's jury is certainly not in conflict with the constitution.

The creation of an officer charged with defined duties and powers, in matters of this kind is certainly not in conflict with the constitution.

The power of the legislature to define and extend the powers and duties of coroners involves the right to diminish their powers and duties as well as to enlarge them: and if the whole business of inquests and conducting investigations in the class of cases now under consideration was taken by legislstion from the present coroner and placed either under such a system as that adopted by Massachusetts, or that in vogue in France or Germany, the coroner's office would still exist; but with restricted powers; and the constitution would be inviolate. The opinions of the Supreme Court of Massachusetts upon analagous questions, are, I think, conclusive

upon the legal questions involved. [Vol. 117 Mass. Rep., p. 603 ; 1 Gray Rep. p. 1.]

The special legislation for the city and county of New York is so important for the proper understanding of the subject that the various laws are hereby collected and given for general information of the subject.

The general statutes for the State on the subject of the office of coroner are as follows:

Title VII, Article First, Chapter II., Page 1039, Banks & Bros.' Sixth Edition Revised Statutes.

"SECTION 1. Whenever any coroner shall receive notice that any person has been slain, or has suddenly died, or has been dangerously wounded, or has been found dead under such circumstances as to require an inquisition, it shall be the duty of such coroner to go to the place where such person shall be, and forthwith to summon not less than nine nor more than fifteen persons, qualified by law to serve as jurors, and not exempt from such service, to appear before such coroner forthwith, at such place as he shall appoint, to make inquisition concerning such death or wounding. [Laws of 1847, *ch.* 118, § 1]

"SEC. 2. Any justice of the peace in each of the several towns and cities of this State, is hereby authorized and empowered, in case the attendance of a coroner cannot be procured within twelve hours after the discovery of a dead body, upon which an inquest is now by law required to be held, to hold an inquest thereon, in the same manner and with the like force and effect as coroners.

"SEC. 3. In all cases in which the cause of a death is not apparent, it shall be the duty of the justice to associate with himself a regularly licensed physician, to make a suitable examination for the discovery of said cause.

"SEC. 4. Each and every justice of the peace who shall hold inquests by virtue of this act, shall receive the same fees as are now allowed by law to coroners.

"SEC. 5. Whenever six or more of the jurors shall appear, they shall be sworn by the coroner to inquire how and in what manner, and when and where, such person came to his death or was wounded, as the case may be, and who such person was, and into all the circumstances attending such death or wounding; and to make a true inquisition, according to the evidence offered to them, or arising from the inspection of the body. [*As modified by* § 2 *of ch.* 118, of Laws of 1847.]

"SEC. 6. The coroner shall have power to issue subpœnas for

witnesses, returnable either forthwith or at such time and place as he shall appoint therein; and it shall be the duty of the coroner to cause some surgeon or physician to be subpœnaed to appear as a witness upon the taking of such inquest.

"SEC. 7. Every person served with any such subpœna shall be liable to the same penalties for disobedience thereto, and his attendance may be enforced in like manner, as upon subpœnas issued in justices' courts.

"SEC. 8. The jury, upon the inspection of the body of the person dead or wounded, and after hearing the testimony, shall deliver to the coroner their inquisition in writing, to be signed by them, in which they shall find and certify how and in what manner, and when and where, the person so dead or wounded came to his death or was wounded, as the case may be, and who such person was; and all the circumstances attending such death or wounding, and who were guilty thereof, either as principal or accessory, and in what manner.

"SEC. 9. If the jury find that any murder, manslaughter, or assault has been committed, the coroner shall bind over the witnesses to appear and testify at the next criminal court, at which an indictment for such offence can be found, that shall be held in the county. And in such case, if the party charged with any such offence be not in custody, the coroner shall have power to issue process for his apprehension, in the same manner as justices of the peace.

"SEC. 10. The coroner issuing such process shall have the same power to examine the defendant as is possessed by a justice of the peace, a d shall in all respects proceed in like manner.

"SEC. 11. The testimony of all witnesses examined before a coroner's jury shall be reduced to writing by the coroner, and shall be returned by him, together with the inquisition of the jury, and all recognizances and examinations taken by such coroner, to the next criminal court of record that shall be held in the county.

"SEC. 12. In case of the absence of the coroners of the city and county of New York, or their inability to attend, from sickness or any other cause, at any time, any alderman or special justice of the city may perform, during such absence or inability, any duty appertaining to the coroners of the said city, under this article; and such alderman or justice shall possess the like authority, and be subject to the like obligations and penalties as the said coroners. [*As modified*, Laws of 1852, *ch.* 289.]

"SEC. 13. The coroners of the several counties in this State are hereby required to deliver over to the treasurer of their respective counties, all moneys and other valuable things which have been or may hereafter be found with or upon the bodies of persons on whom inquests have been or may hereafter be held, and which shall not have been claimed by the legal representatives of such person or persons, within sixty days after this act becomes a law, in cases of inquests

heretofore held; and in cases which may hereafter arise, within sixty days after the holding of any such inquest; and in default thereof, the said treasurer shall be authorized and required to institute the necessary proceedings to compel such delivery. [Laws of 1842, *ch.* 155, § 1.]

"SEC. 14. The several treasurers to whom any such valuable thing shall be delivered, pursuant to the provisions of this act, shall, as soon thereafter as may be, convert the same into money, and place the same to the credit of the county of which he is treasurer; and if demanded, within six years thereafter, by the legal representatives of the person on whom the same was found, the said treasurer, after deducting the expenses incurred by the coroner, and all other expenses of the county in relation to the same matter, shall pay the balance thereof to such legal representatives. [*Same ch.*, § 2.]

"SEC. 15. Before auditing and allowing the accounts of such coroners, the supervisors of the county shall require from them, respectively, a statement in writing containing an inventory of all money and other valuable things found with or upon all persons on whom inquests shall have been held, and the manner in which the same has been disposed of, verified by the oath or affirmation of the coroner making the same, that such statement is in all respects just and true, and that the money and other articles mentioned therein have been delivered to the treasurer of the county, or to the legal representatives of such person or persons. [Laws of 1842, *ch.* 155, § 3]

"SEC. 16. The said coroners shall be entitled to receive a reasonable compensation for making and rendering such statement, and for their trouble and services in the preservation and delivery of said effects and property, as hereinbefore provided; and all reasonable expenses incurred by them in relation thereto, to be audited by the board of supervisors, in addition to the fees or compensation to be allowed by them for holding an inquest." [*Same ch.* § 4.]

The special acts relating to the city of New York are as follows:

By Laws of 1871, chapter 462, it was enacted as follow:

"SECTION 1. Hereafter when in the city and county of New York, any person shall die from criminal violence, or by a casualty, or suddenly when in apparent health, or when unattended by a physician, or in prison, or in any suspicious or unusual manner, the coroner shall subpœna a properly qualified physician, who shall view the body of such deceased person externally or make an autopsy thereon as may be required. The testimony of such physician and that of any other witnesses that the coroner may find necessary, shall constitute an inquest. For making said external examination the

physician shall receive three dollars; for making such autopsy he shall receive ten dollars, and such sums shall be a county charge, and be paid by the board of supervisors.

"SEC. 2. Should the coroner deem it necessary, he may call a jury to assist him in his investigation, or should any citizen demand that a jury be called, he shall proceed as directed by part four, title seven, article one, of the Revised Statutes.

"SEC. 3. It shall be the duty of any citizen who may become aware of the death of a person who shall have died in the manner stated in section one of this act, to report such death forthwith to one of the coroners, or to any police officer, and such police officer shall, without delay, notify the coroner of such death; and any person who shall wilfully neglect or refuse to report such death to the coroner, shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the county prison not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

"SEC. 4. Any person, except the coroner, who shall wilfully touch, remove, or disturb the body of any one who shall have died in the manner described in section one of this act, or who shall wilfully touch, remove or disturb the clothing, or any article upon or near such body, without an order from the coroner, shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the county prison not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

"SEC. 5. Any citizen of this State not over seventy years of age and being at the time a resident of the county, may be summoned to serve as a juror upon a coroner's inquest; and any person who shall wilfully neglect or refuse to serve as such juror when duly summoned, shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the county prison not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

"SEC. 6. The board of coroners of the county of New York may appoint a clerk, who shall receive an annual salary of thirty-five hundred dollars per year, which shall be a county charge, and payable as other county salaries are paid.

"SEC. 7. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

"SEC. 8. This act shall take effect immediately."

The previous compensation had been fixed by chapter 565 of Laws of 168, as follows:

"SEC. 1. The Supervisors of the county of New York are hereby

directed to audit the bills of the coroners of the city and county of New York for services as follows: For viewing each dead body and holding an inquest thereon, the sum of ten dollars; for summoning and swearing a jury in each inquest, five dollars; and all other fees or expenses now existing, whether by city or county usage, or by law, charged by said coroners, are hereby abolished. And no fees herein established shall be audited by said board of supervisors, or hereafter paid, except upon the sworn accounts filed with said board, and with the comptroller of said city.

"SEC. 2. This act shall take effect immediately."

In 1873, Laws of 1873, chapter 833, the following act was passed, entitled "An Act to Regulate the Fees of Coroners:"

"SEC. 1. The coroners in and for the State of New York, except in the counties of New York and Kings, shall be entitled to and receive the following compensation for services performed:

"Mileage to the place of inquest and return, ten cents per mile.

"Summoning and attendance upon jury, three dollars.

"Viewing body, five dollars.

"Service of subpœna, ten cents per mile traveled.

"Swearing each witness, fifteen cents.

"Drawing inquisition for jurors to sign, one dollar.

"Copying inquisition for record, per folio, twenty-five cents, but such officers shall receive pay for one copy only.

"For making and transmitting statement to board of supervisors, each inquisition, fifty cents.

"For warrant of commitment, one dollar.

"For arrest and examination of offenders, fees shall be the same as justices of the peace in like cases.

"When required to perform the duties of sheriff, shall be entitled to and receive the same fees as sheriffs for the performance of like duties.

"Shall be reimbursed for all moneys paid out actually and necessarily by him in the discharge of official duties.

"Shall receive for each and every day and fractional parts thereof spent in taking inquisition (except for one day's service), three dollars.

"For performing the requirements of law in regard to wrecked vessels, shall receive three dollars per day and fractional parts thereof, and a reasonable compensation for all official acts performed, and mileage to and from such wrecked vessel, ten cents per mile.

"For taking ante-mortem statement shall be entitled to the same rates of mileage as before mentioned, and three dollars per day and

fractional parts thereof, and for taking deposition of injured person in extremis, one dollar.

"SEC. 2. A coroner shall have power, when necessary, to employ not more than two competent surgeons to make post-mortem examinations and dissections and to testify to same, and to fix their compensation, the same to be a county charge.

"SEC. 3. Whenever, in consequence of the performance of his official duties, a coroner becomes a witness, he shall be entitled to receive mileage to and from his place of residence, ten cents per mile, and three dollars per day for each day or fractional parts thereof actually detained as such witness.

"SEC. 4. All items of coroners' compensation shall be a county charge, to be audited and allowed by board of supervisors.

"SEC. 5. All acts and parts of acts inconsistent with this act are hereby repealed.

"SEC. 6. This act shall take effect immediately."

This act was amended the next year, Laws of 1874, chapter 535, by the passage of the following amendment:

"SEC. 1. The thirteenth paragraph of section one, chapter eight hundred and seventy-three, entitled 'An Act to Regulate the Fees of Coroners, is hereby amended by adding thereto the words, 'as shall be allowed by the board of supervisors,' so that said paragraph shall be read as follows:

"'Shall be reimbursed for all moneys paid out, actually and necessarily by him in the discharge of official duties as shall be allowed by the board of supervisors.

"SEC. 2. Section two of said act is hereby amended so as to read as follows:

"SEC. 2. A coroner shall have power, when necessary, to employ not more than two surgeons to make post-mortem examinations and dissections, and to testify to the same, the compensation therefor to be a county charge.

"SEC. 3. Section three of said act is hereby amended so as to read as follows:

"SEC. 3, Whenever, in consequence of the performance of his official duties, a coroner becomes a witness in a criminal proceeding, he shall be entitled to receive mileage to and from his place of residence, ten cents per mile, and three dollars per day for each day, or fractional parts therof, actually detained as such witness."

An act was passed in 1873, referring to the practice in the city of New York, chapter 620, Laws of 1875, with the following provisions:

"SEC. 1. It shall be lawful for the several coroners in and for the city and county of New York, with the written consent first had and obtained of the district attorney and a justice of the supreme court within said city and county, to employ any scientific expert, engineer, or toxicologist to examine the body of any person who shall have died from alleged criminal violence, or by casualty, or in any suspicious or unusual manner, and as to the cause of whose death the coroner shall have jurisdiction to inquire.

"SEC. 2. Upon the certificate of such employment by a coroner, with the written consent of the district attorney and a justice of the supreme court, as aforesaid, being filed with the comptroller of said city and county of New York, such scientific expert, engineer, or toxicologist shall be entitled to recover and receive as a proper claim against said city and county of New York just and reasonable compensation for his services rendered in the matter of such inquest upon the request of said coroner with such written consent as aforesaid. Such just and reasonable compensation shall be ascertained and certified to by the district attorney, justice of the supreme court, and the comptroller of said city and county of New York; and in case such just and reasonable compensation shall not be so certified and paid, such scientific expert, engineer, or toxicologist shall be entitled to maintain his proper action therefor at law to recover the same.

"SEC. 3. It shall be the duty of said board of estimate and apportionment of the said city and county of New York, to provide in each and every year, out of the moneys raised by taxation, all necessary sum or sums of money for the purpose of carrying the provisions of this act into effect, and also for paying all such sum or sums as are provided for by the following section of this act.

"SEC. 4. It shall be the duty of said board of estimate and apportionment to provide for the services of any of the classes of persons mentioned in the first section of this act, which have been rendered since the first day of January, one thousand eight-hundred and seventy-two, in pursuance of the direction of any coroner of said city and county, such sum of money as the district attorney, justice of the supreme court, and comptroller, as aforesaid, or a majority of them, may certify as just and reasonable; and in case of the refusal of the payment of the amount so certified, as aforesaid, by the officer whose duty it is to pay the same, the person rendering such services shall be entitled to maintain his action against said city and county of New York, or the mayor, aldermen and commonalty thereof, or other proper officer thereof, to recover the just and full value of the services so rendered.

"SEC. 5. All acts and parts of acts inconsistent herewith are hereby repealed.

"SEC. 6. This act shall take effect immediately."

The law remained as before stated until the year 1878, when the following act was passed, entitled "An Act Relating to the Coroners of the City of New York—Their Duties and Compensation," chapter 256, Laws of 1878:

"SEC. 1. Each of the coroners of the county and city of New York, hereafter elected as provided by law, shall be paid in full satisfaction for his services a yearly salary of five thousand dollars, and shall be allowed for contingent expenses, including clerk and office hire, and all other incidental expenses, a sum not to exceed two thousand dollars per annum, which contingent and incidental expenses shall be audited and paid as the contingent and incidental expenses of other officers of the said city and county are audited and paid; and said salary and allowance shall be in lieu of all his fees or compensation heretofore a charge upon the county of New York, or the mayor, aldermen, and commonalty of the city of New York.

"SEC. 2. In all cases where the coroners of said city and county are authorized to issue a subpœna to a qualified physician to view the body of a person deceased, or make an autopsy thereon, as may be required, the subpœna of the coroner shall hereafter be issued only to one of the physicians appointed, as in this statute directed, and it shall be the duty of the physician to whom such subpœna is so issued, to make the inspection and autopsy required, and to give evidence in relation thereto at the coroner's inquest.

"SEC. 3. The board of coroners of the city of New York shall, within five days after the passage of this act, by a writing filed in their office and published in the *City Record*, appoint four qualified physicians, who shall be residents in said city, to perform the duties in the preceding section specified, and shall be known as 'coroners' physicians.' Thereafter each coroner of said city elected as provided by law, shall, on assuming office, appoint successors to the physicians herein provided for. Any vacancy in the office of coroners' physicians shall be filled by the board of coroners. The board of coroners, for cause, may remove the physicians appointed by them.

"SEC. 4. It shall be the duty of the board of estimate and apportionment of said city, from time to time, as it may determine, to fix the salary to be paid to the physicians appointed as in this statute directed for performing the duties herein provided. The salary to be paid to each of said physicians shall not in any one year exceed the sum of three thousand dollars. The salaries in this act provided for shall be paid monthly by the mayor, aldermen and commonalty of the city of New York.

"SEC. 5. Each of said coroners heretofore elected shall attend to an equal or proportionate part of the cases in which a coroner is re-

quired to act in said city and county; and after the thirty-first day of December, eighteen hundred and seventy-eight, there shall be paid to each of said coroners, during the remainder of his term of office, the fees or compensation now provided by law.

"SEC. 6. So much of section one of chapter four hundred and seventy-one, as provides 'for making said external examination, the physician shall receive three dollars; for making such autopsy he shall receive ten dollars; and such sum shall be a county charge, and paid by the board of supervisors, is hereby repealed. The act, chapter five hundred and sixty-five of the laws of eighteen hundred and sixty-eight, entitled 'An Act to Fix the Compensation of the Coroners of the City and County of New York,' passed May four, eighteen hundred and sixty-eight, is also hereby repealed, but such repeal shall not take effect until the first day of January, eighteen hundred and eighty.

"SEC. 7. This act shall take effect immediately, except as herein otherwise specially provided."

At the same session, the Laws of 1873 were amended as follows (chapter 286, page 382):

"SEC. 1. Chapter eight hundred and thirty-three of the laws of eighteen hundred and seventy-three, entitled 'An Act to Regulate the Fees of Coroners,' is hereby amended by the insertion of a new section immediately after the third section, as follows:

"SEC 4. The fees of jurors necessarily summoned upon any coroner's inquest shall be not to exceed one dollar for each day's service, shall be a county charge, and shall be audited and allowed by the board of supervisors in the same manner as other fees and charges mentioned in this act. But the coroner holding such inquest and summoning said jurors shall make report to the next succeeding board of supervisors after every such inquest of the names of such jurors and the term of service of each, and upon what inquest rendered, on or before the third day of the annual session in each year.

"SEC. 2. Sections four, five and six of said act are hereby numbered respectively, sections five, six and seven.

"SEC. 3. This act shall take effect immediately."

The foregoing is a resumé of the existing statutes and laws of this State, in force as well as in the State at large, as also those in force in the city and county of New York.

Special legislation for Kings and Erie, and some other counties of the State, has been passed, but nothing of particular interest to the question under discussion.

These and other considerations which have occurred to you as medical men, of the workings of the present coroners' system under your eyes in the various sections of the State where you reside, must have long ago decided you that a change in the present system of coroner was an urgent necessity.

The medical profession owes a duty to itself in this matter.

It should for itself, and for the sake of placing such cases in proper hands, aid this movement.

If competent medical men can be placed by law in charge of such cases, an important, forward step will be taken both for your profession and for the public weal.

The influence of the State Medical Society of Massachusetts was enormous in influencing the legislature of that State to abolish the office of CORONER and to put in his place the MEDICAL EXAMINER.

The State Medical Society of New York occupies the same proud position in the EMPIRE STATE.

I ask you to endorse this movement with your unanimous vote. Let the effort when it goes to the legislature have your hearty endorsement, not alone, but let the medical profession throughout the State rally to a movement so intimately connected with its honor and its future.

I must not close without extending my thanks to the officers of the Massachusetts Medico-Legal Society, Mr. Theodore H. Tyndale; Mr. Fred. R. Coudert, Mr. J. P. Beder, Mr. B. Roelker, of our Bar; the Consuls-General of Germany, Russia, Italy, Greece and Spain; for courtesies and information in the investigation of this subject.

I have the honor, gentlemen, to ask your consideration of resolutions favoring and urging this important reform upon the State Legislature.

NOTE.—At the February session of the New York State Medical Society, (1881) the following action was taken:

The Commtttee on Legislation reported that having conferred with Mr. Clark Bell, they recommend the adoption of the following resolution:

Resolved, That in the opinion of this Society it is desirable for the Legislature to thoroughly amend and revise the laws of this State in regard to the office and duties of Coroners, and the Society would recommend for their consideration the recent statute adopted by the State of Massachusetts. [Substituting medical examiners for coroners.]

The report of the Committee was accepted and the resolution unanimously adopted.

The Committee on Legislation also offered the following:

Resolved, That the thanks of the Society are due to the Medico-Legal Society of New York, and to Clark Bell, Esq., for the action they have taken in reference to the matter of Coroners' law.

This resolution was unanimously adopted.

*THE IMPORTANCE, FROM THE MEDICO-LEGAL STANDPOINT, OF DISTINGUISHING BETWEEN SOMATIC AND MOLECULAR DEATH.**

By L. HARRISON METTLER, A. M., M.D.,
Lecturer on Mental and Nervous Diseases in the Medico-Chirugical College of Philadelphia,

In the December number of the MEDICO-LEGAL JOURNAL there appeared an article upon the post-mortem imbibition of poisons by Prof. Mott, in which the following very shrewd and practical suggestion is submitted for investigation, namely, that the chemist should not only detect the presence of the poison and determine the percentage present but also endeavor to ascertain whether or not, owing to the exercise of what is called the vital force and the resulting unstable condition of the organic matter of the body, some of the poison may not have chemically combined with that organic matter somewhere in the body, forming a true chemical compound of a fixed percentage composition. If it can be shown that the same poison, arsenic for instance, when injected into the body *after death* for the purpose of embalming it, although disseminated by osmosis throughout the tissues, cannot be discovered anywhere in the organism under the new and different form of such a chemical compound but only as a mechanical mixture which may be removed by other than chemical or dissociating processes, we will be in possession of a positive means for determining whether the poison were in-

* Read before the Medico-Legal Society of New York, January, 1890.

gested during life or merely injected after death. Such a discovery would be of incalculable value in assisting the courts to decide cases of supposed criminal or accidental poisoning.

The case of the people of the State of Michigan *vs.* Matthew Millard, as reported in the same number of the MEDICO-LEGAL JOURNAL by Dr. Vaughan, affords an admirable illustration ready at hand. Millard's wife, it seems, died with symptoms closely resembling those of arsenical poisoning and was buried without any suspicions being aroused for a time. Later on, however, the body was exhumed and parts of the rectum and stomach placed in one jar and of the liver and kidney in another. After careful analysis, Prof. Prescott testified that he found about 15 grains of arsenic in the entire contents of the first jar and about 1½ grains in that of the second. The defense maintained that the arsenic found was that injected by Millard and his brother into the stomach and rectum of the dead woman for the purpose of preserving the body until the arrival of the casket which had been ordered from Detroit. After a second trial and a considerable amount of expert testimony upon both sides, the respondent was acquitted.

Now, if in such a case Prof. Mott's suggestion in regard to the chemical condition of the arsenic found in the tissues after death, if applicable, could have been employed, there would probably have been no difficulty in deciding at least whether the toxic substance was absorbed during life or merely thrown into the body after death; for in the former instance some chemical combination, the result of the union of the arsenic with the elements of the living, metabolizing tissues, would have been found somewhere in the body, while in the latter instance only the arsenic as originally used would

have been discovered merely disseminated and mechanically mingled with the tissues. The foundation for this suggestion is of course, the well-known chemical changes and transformation constantly occuring within the living active tissues. The proposed new method, deserving the closest consideration as it does, if discovered to be applicable, may still be dangerously misleading in some cases. Instances are upon record, and unfortunately are far too common, in which *apparent death* has led friends and relatives to begin their funeral preparations and ceremonies and sometimes even to have buried, horrible as it seems, a still living but supposed deceased individual.[9] Such cases though extremely rare, might possibly be repeated and arsenic or some other poison having been too hastily employed for purposes of embalming or preservation and part of the poison having somewhat chemically combined with the still living tissues, might give rise to an entirely erroneous evidence, should the case at any time afterwards be suspected and brought into the courts. It is consoling to know, however, that the extreme rarity of such cases, prevents their militating very much against the value of the new method for detecting how a poison has been introduced into the body.

But I desire to call attention in this paper especially to the fact that our present ignorance in regard to the actual process of death, might cause the method not only to prove valueless as evidence but exceedingly dangerous in the vast majority of ordinary cases of suspected poisoning. My suggestion may appear merely theoretical; doubtless it is, since it is based upon our physiological knowledge of death, which of itself amounts to *nil*, or is at best simply a theoretical knowledge. The suggestion, however, may stimulate some one to investigate

what is actually meant by the death of the organism; if not let it but indicate the hazardous element in the method proposed and it may prevent a good idea, if discovered to be true, being too quickly put into application and by the possibility of an unfortunate blunder fall into everlasting disrepute.

Physiology is almost axiomatic in asserting that the only certain sign of real death is the commencement of putrefaction, but all parts of the body never begin putrefying at the same time. Speaking of the so-called vital point of the medulla, destruction of which is supposed to be immediately followed by death, Prof. Flint says, "With the existing knowledge of the properties and uses of the different tissues and organs of which the body is composed, it is almost unnecessary to present any arguments to show the unphilosophical character of such a proposition. *One can hardly imagine such a thing as instantaneous death of the entire organism.* * * * Probably a very powerful electric discharge passed through the entire cerebro-spinal axis produces the nearest approach to instantaneous death; but even then it is by no means certain that some parts do not for a time retain their physiological properties. * * * There seems to be no such thing as death, except as the various tissues and organs which go to make up the entire body become so altered as to lose their physiological properties beyond the possibility of restoration; and this never occurs for all parts of the organism in an instant * * * * Death is nothing more than a permanent destruction of so-called vital physiological properties; and this occurs successively and at different times for different tissues and organs" (Human Physiology, Fourth edition, p. 632). This is the commonly accepted explanation of the phenomenon of death with

the best modern physiologists. The question of the highest importance, left unanswered in this connection, is the time required for the death of each of the various tissues and organs; in a word, it may be asked, how long after the first general indications of death, such as the cessation of respiration and of the heart-beats, does the physiological activity of the last organ or tissue which seems to retain its so-called vitality, cease, so that it may be said of the entire organism that it is absolutely and completely dead, without activity or function? In fact there are no positive indications of the death of the entire organism, no positive signs by which we can distinguish the cessation of the processes of *molecular* death which we now know to continue for a considerable time after those of *somatic* death have come to an end. This is still a question for science to answer and a most practical one in many ways from the standpoint of forensic medicine.

Few experts nowadays would deny that certain poisons, injected into the body after death, are transferred by imbibition from one tissue to another. Osmosis is the rationale of this, and, wherever the toxic substances traverse the body, there they are found identical in composition with the same substance as it is discovered on the surface or near the open cavities of the cadaver. Now if such a substance be injected into a body for the purpose of preserving it very soon after the first general symptoms of death have manifested themselves, it is not impossible that some of it may be brought into contact with certain structural elements of the body which have not yet undergone complete molecular death, and by chemically combining with them afford the evidence of poison having been ingested during the life of the individual. This is the proposition that science should

carefully consider and with it determine as far as possible the time and absolute signs of death for the *entire* organism, so that the valuable suggestion of Prof. Mott may have its full force, if proved to be available and be without a flaw as a means of affording expert testimony in cases of poisoning.

That such a proposition is not without some foundation, however absurd it may appear at first sight, let me be permitted to use an illustration. In regard to the subject of death Kirke's physiology states that "the place of the departing elements is not taken by others;" in other words, a dead tissue may undergo changes of a chemical and mechanical nature but it does not take into itself any more substance from without. The cause of *rigor mortis*, that singular phenomenon of the muscular system which usually occurs some hours and not infrequently days and weeks after the general signs of somatic death, is believed by many physiologists to be the same as that of ordinary muscular contraction. There are many facts which go to prove the identity of cadaveric rigidity with simple muscular contraction, and which discountenance the old coagulation theory (Girard, Revue Med. de la Suisse Romande, Nov. 20, 1889). There is the same production of sarco-lactic acid, the same elimination of carbonic acid, the same diminution in volume and the same shortening of the muscular fibres. Bierfreund (Archiv. für die gesamente Physiologie, v. 43, p. 195) adduces certain experiments performed by himself as evidence that *rigor mortis* is simply a prolonged muscular contraction, and thus at the same time he supports the well-known view of Hermann that the chemical changes in *rigor mortis* are the same as those in muscular contraction. Brown-Sequard pointed out in 1885 (Comptes Rendus) the curious

fact that muscles which had passed into a state of *rigor mortis* were not absolutely quiescent, but contracted and relaxed periodically as though in the living condition. He stated in 1887 that these movements, which he had again studied more carefully and by the graphic method, ceased only when the cadaveric rigidity began to yield to putrefaction, that is to say at about the end of three weeks; and that they depended upon the continuance of the muscular irritability.

Nasse, Seegen, Berlinerblau and Marceuse have each shown by the most careful experimentation that the glycogen which appears in connection with the muscular tissues, somehow disappears during muscular contraction while sugar and lactic acid take its place, and that these changes occur just the same with the contractions of *rigor mortis* as with the normal contractions of living muscle. Hence it has been inferred that the "muscle itself possesses the inherent power of producing this transformation."

The conclusion to be drawn from all this is quite obvious. In the first place, the identity of normal muscular contractions and *rigor mortis*, the identity of the chemical changes in both conditions, and the simple fact of these chemical changes continuing within the muscular tissues so long after their supposed death, from three days to three weeks sometimes, would seem to show that these tissues may be capable at least of absorbing some of the poisonous compounds used for embalming and brought in contact with them by the process of imbibition; and it would furthermore seem that possibly these tissues or some of their products of metamorphosis may so unite with these poisonous compounds as to form chemical combinations closely simulating those formed from the ingestion of the poison during the life of

the individual. The question is one that needs the closest investigation. If such should be the condition of the muscular system after death, who knows what may be the condition or form of activity of some of the more deeply seated and less highly organized structures, in which the process of death is liable to be much more prolonged? The molecular death of these may not come to a final termination until a period long after three weeks; or if the term molecular death in such a connection be not quite correct, let us say that these tissues may still be undergoing such peculiar changes, not putrefactive, at so late a period after the appearance of all symptoms of somatic death as to give rise to such chemical combinations with the imbibed poisons as to cause them to imitate most closely the combinations formed when the same poison is taken internally by the individual during life.

We can understand, therefore, that after having proved and begun to avail ourselves of the very shrewd suggestion of Professor Mott, many other facts of a purely physiological character need to be established before a person's reputation and liberty dare be molested upon the sole evidence of this simple chemical distinction namely, the difference between the chemical composition of a poison in combination with living tissues and the simple admixture of the same with dead tissues.

EDITORIAL.

ELECTROCUTION.

We see nothing in the execution of Kemmler that should justify any attack upon the existing law.

It is difficult to judge whether the charges reflecting upon the warden are true or false, but one thing is evident, a warden is hardly a competent official to have charge of the details of such an execution, and, to put it in the mildest form, his selection of medical advisers could hardly have been worse.

No medical man experienced in electricity was selected, and, with the exception of Dr. Southwick, whose honorable connection with the passage of the law made his presence an act of praiseworthy courtesy, not a medical man was selected who had special knowledge either of the subject or of the details of its practical application.

The Press of the country opposes the law, as a rule, because of its provisions as to excluding the details from publication.

None of the reporters present whose accounts we have read, seem at all familiar with the phenomena of muscular action even in cases of decapitation, a bullet through the brain, or other forms of instant or unconscious death, nor have they contrasted it with other manifestations where death occurs.

We do not for a moment credit the charge that a deliberate attempt was made to use only a 1,000 volt current. It is incredible, and the facts demonstrate a full contradiction of such a suspicion. If there should be bungling by a warden in such a case, it would be like

the bungling of a hangman in adjusting a noose or the drop—it does not affect the main question. The facts remain. Death by a properly regulated current of electricity is instantaneous. It is painless. It is not attended by consciousness, though we see no reason why it should not be accompanied by the usual muscular phenomena frequently accompanying cases of instantaneous death.

Ignorance of this phenomena by spectators forms no reason or justification for the conclusions formed by many journals, and which have no doubt inflamed and misled the public mind.

We would favor the selection of a competent person to have charge of the details of executions, if thought advisable, but we favor the enforcement of the law and its retention; and claim that the popular judgment should not be influenced by the comments of the public press or the enemies of capital punishment who seek the overthrow of the statute to abolish the death penalty in this State, a change not yet demanded by the public sentiment of New York.

The warden may have bungled and made a deplorable failure, but none can say that the law is a failure or its proper enforcement at all difficult by any person of ordinary intelligence.

TESTS OF DEATH.

Dr. B. Ward Richardson gives the following interesting statement upon this subject in the 3d quarter number of the *Asclepiad* for 1890:

A paragraph making the round of the scientific and general press must be accepted *cum grano*. In this paragraph it is stated that the French Academy of Sciences ten or fifteen years ago offered a prize of £1,600 for the discovery of some means by which even the inexperienced might at once determine whether in a given case death had or had not ensued.

A physician obtained the prize. He had discovered the following well-known phenomenon. If the hand of the suspected dead person be held towards a candle or other artificial light with the fingers extended and one touching the other, and one looks through the spaces between the fingers towards the light, there appears a scarlet red color where the fingers touch each other, due to the blood still circulating, and showing itself through the tissues, life has not yet ceased. When life is entirely extinct the phenomenon of scarlet space between the fingers at once ceases. The most thorough trials, it was said, has established the truth of this observation. In my essay on absolute proofs of death I have described this test with the others, and have attached to it its true value. The statement that the test is sufficient of itself is, however, too solemn to be allowed to go without correction; and I therefore affirm, with all possible earnestness, that the test, trusted to alone, is capable of producing the most serious error. In the case of a person in a state of syncope, where the test was most carefully applied, there was not the faintest trace of red coloration between the fingers; yet recovery from the syncope was quite satisfactory without any artificial aid. The test is one which admits of being readily tried, and, *prima facie*, it is a good test to bring into operation. But as an absolute proof of death I should put before it: (1) the pulsation of the heart; (2) the respiratory murmur; (3) pressure on veins; (4) the electric test for muscular irritability; (5) the ammonia hypodermic test; (6) coagulation of blood in the veins; (7) rigor mortis, and (8) decomposition.

DION BOUCICAULT AND THE DRAMA.

The historian of the 20th century will place this illustrious name above all compare with the dramatic authors of the 19th.

It is doubtful if any man ever lived upon the earth, who made more money by his pen. Lavish in expenditure on his family and friends, he spent the millions he earned, saved nothing, and died poor. All English speaking people owe him and his memory great gratitude, for the delight his works have everywhere given, on the dramatic stage, and the brilliancy of his genius is universally conceded by his admirers as well as by his enemies and detractors.

De mortuis nil nisi bonum has been the standard by which the writers of culture and civilization in our day speak of the illustrious dead. It is a crime in jour-

nalism to violate this law, which has been universally respected among honorable men. We regret to have seen one journal which has maligned the memory of the dead by publishing calumnies, without the slightest foundation, against the great dramatist. Every lion must have its jackal, but we have not learned in our latitude to encourage literary hyenas, as necessary adjuncts to our cemeteries.

The slanderers of George Washington and of Alexander Hamilton fill obscure and even unknown graves. Their very names are forgotten. So will be this calumniator in a quarter of a century, but it is a burning disgrace to American journalism, and a humiliation to our pride that any occasion should arise, in our day, for such a criticism, as to any journal having the slightest claim to respectability.

THE STATE LUNACY COMMISSION.

Through the courtesy of T. E. McGarr, Esq., Secretary of this Commission, we are able to give the price fixed in the several counties of the State of New York to pay for the insane sent to the State hospitals:

$4.25 per week per capita for the first three years, and $2.50 after the first three years. This goes into effect October 1st, 1890.

The Commission has also established careful regulations regarding the transfer of insane patients to and from hospitals, or their homes, as to food, clothing, travel and all matters connected therewith.

The Commission has districted the State among the the seven State hospitals, designating the several counties in each district. The counties of New York, Kings and Monroe are not included in the districts as created.

The Commission has also passed resolutions abolishing

the distinction between private and public patients, in the State hospitals, and against the further admission of private patients in State hospitals after October, 1890, except by special permission.

On June 1 the Commission passed a series of resolutions intended to prevent the service of any papers, in legal proceedings upon insane patients in asylums, or the signing by them of any contract or deed, except on the order of a court or judge. We have not examined the authority of the Commission for this action. Much of it is praiseworthy and should be made legal by legislative enactments.

A service on an insane person would, however, hardly be affected by these orders, unless they are sanctioned by, or authorized by the legislature or the courts.

If the legislature had given the Commission power to legislate upon this subject, these regulations might be enforced, but they would be mere obstructions to the service of process, or the exercise of personal rights of the insane, unless sanctioned by the legislature.

We do not understand how the Commission can take the place of the law-making power, in changing the law of the land, as to the rights, duties and powers of the insane, or as to service of legal process upon them.

Personal.

Dr. Maziere Courtenay has been appointed Inspector of Lunatics in Ireland.

Dr. Fred. Needham was Chairman of the Section on Psychology at July Meeting British Medical Association.

BRITISH MEDICO-PSYCHOLOGICAL ASSOCIATION.

Dr. D. Yellowlees was installed as President at July meeting, vice Dr. H. F. Hayes Newington retiring, and

Dr. E. B. Whitcome of Manchester was elected to take the Chair in July 1891.

Dr. Connolly Norman was made Hon. Secretary for Ireland, Dr. A. R. Urquhart for Scotland, and Fletcher Beach, M. B., made General Secretary.

The annual meeting was held at Glasgow in Scotland and the meeting of 1891 will be held in Manchester, England.

HYPNOTISM.

This subject continues to receive scientific attention and endorsement.

The British Medical Association, Psychological Section, has named the following committee to investigate the phenomena of Hypnotism and its value as a therapeutic agent:

Dr. Frederick Needham, of Gloucester; Prof. Gairdner, of Glasgow; Dr. Hack Tuke, London; Dr. Clouston, Edinburgh; Dr. Yellowlees, Glasgow; Dr. Connolly Norman, Dublin; Dr. Kingsbury, Blackpool; Dr. Ross, Manchester; Dr. Drummond, Newcastle on Tyne. Dr. Suckling, Birmingham; Dr. Broadbent, London; Dr. T. Otterson Wood, London.

NOTICE TO MEMBERS AND COLLEAGUES.

Those who will contribute papers to be read at the American International Congress of Medical Jurisprudence, 1892, will kindly send their names and title of the papers to Mr. Clark Bell at No. 57 Broadway, N. Y.

Members, interested in the success of the work of the Medico-Legal Society, will send the names and addresses of those recommended to membership in the body to the President or any officer of the Society.

Contributions to the Library of the Medico-Legal Society are solicited from members and all students of

the science throughout the world. If sent from foreign countries, addressed to the President of the Society, they come free of duty.

PRIZE ESSAYS.

The Medico-Legal Society offers a first prize of $100 and a second prize of $50 for essays on any subject within the domain of Medical Jurisprudence, open to April 1, 1891. For particulars address Clark Bell, Esq., President, No. 57 Broadway, N. Y.

The Medico-Psychological Society of Paris offers the following prizes for 1891:

Prize Aubanel, 2,600 francs, "De la folie chez les Viellards."

Prize Belhomme, 800 francs, "De la vision chez les idiots, et les imbeciles."

Prize, Esquired 200 francs, for the best essay upon Mental Medicine.

The essay, with the name and address of the author and his device should be sent to Dr. Ritti, Maison National de Charenton, Secretary of the Society, Paris, France.

THE SUPREME COURTS OF THE AMERICAN STATES AND THE BRITISH PROVINCES OF NORTH AMERICA.

It is proposed to publish a volume which shall contain a sketch of the life and public services of the Chief Justices of the Supreme Courts of the American States and Territories, and of the British Provinces of North America.

The work to contain also a historical sketch of the Supreme Court of each State or Province, to be written by the Chief Justice, or by some one under his approval.

Such a work to be embellished by the portraits of the Chief Justices, when obtainable, and of such members of the Bench as are accessible.

The project has the approval of a considerable number of the members of the American and Canadian Judiciary, and will be undertaken by the editor of this journal and other gentlemen associated with him.

The expense of such an undertaking, if done in a creditable manner, with suitable portraits will be considerable, and will be furnished to the profession at $5 for the volume.

Those who are willing to subscribe will forward their names to the editor of this journal.

More than thirty of the Chief Justices have already forwarded their portraits for the work, and sketches of the judiciary will be contributed by eminent members of the profession from the several States, Territories and Provinces.

Such a work will be of great interest to both the judiciary and the bar, and the co-operation of the profession is earnestly solicited in the effort to make the labor successful.

We produce from the forthcoming volume, in this number, the portrait of Chief Justice EDWARD E. BERMUDEZ, of the Supreme Court of Louisiana. The sketch is from the pen of a leader of the Louisiana Bar, and the history of the court of that State will be written by Chief Justice Bermudez.

The sketch of Chief Justice Stone, of Alabama, will be written by Judge H. M. Somerville, of the Supreme Bench of that State, and the historical sketch by the Chief Justice.

This journal will announce from time to time the progress of the work, and will occasionally produce some of the sketches and the portraits, as has already been done of the Connecticut judges.

MEDICO-LEGAL SOCIETY.

October Session, 1890.

Clark Bell, President, in the chair.

The reading of the minutes of the June meeting was, on motion, dispensed with.

The following gentlemen were elected active and corresponding members, on recommendation of the Executive Committee:

ACTIVE MEMBERS.

Proposed by Clark Bell, Esq.: Dr. Louis Leon, Ozuluama, Mexico; Hon. Albert H. Horton, Chief Justice Supreme Court, Topeka, Kansas; Franklin R. Haines, Esq., Pemberton, New Jersey.

Proposed by Dr. D. R. Wallace: Dr. R. P. Talley, Belton, Texas.

Proposed by A. Wood Renton, Esq., of London: Hume Williams, Esq., No. 1 Essex Court, Temple, London, England.

Proposed by Dr. Michael Campbell: Dr. F. M. Hood, Asst. Physician W. Va. Hosp. for Insane, Weston, W. Va.; Chancellor Henry A. Gibson, Tenn. Med. College, Knoxville, Tenn.

Proposed by Dr. W. M. Fleming: Walter S. Fleming, M. D., Supt. Flatbush Insane Asylum, Brooklyn, N. Y.

Proposed by Dr. W. G. Spratling, of Morris Plains, N. J.: Dr. L. C. Mial, Asst. Physician Morris Plains Asylum, N. J.; Dr. D. A. Gorton, 137 Clinton Street, Brooklyn, N. Y.

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Richard J. Dunglison, Philadelphia, Pa.; Hon. Chas. B. Andrews, Chief Justice Connecticut Supreme Court.

The President introduced Hon. A. L. Palmer, Judge of the Supreme Court of New Brunswick, whom he called to the chair to preside at the session. Judge Palmer returned thanks for the honor.

In the absence of the author, A. Wood Renton, the President read a paper entitled: "The Legal Test of Lunacy," from the London *Law Quarterly Review.*

The paper was discussed by Judge A. L. Palmer of New Brunswick, Judge H. M. Somerville of Alabama, and the President.

The Secretary, Dr. Emily Kempin, one of the delegates to the International Union of Criminal Law, held at Berne, Switzerland, made a report of the session of that congress in August last.

Dr. Robert Newman made a report as Delegate to the International Congress of Cremation held at Berlin.

Also a report as Delegate to the International Medical Congress at Berlin.

The reading of Prof. J. J. Elwell's paper on "Epilepsy as Defense on Charge of Crime" was then, on motion, laid over to the November meeting.

The Society then adjourned.

Emily Kempin,
Secretary.

The discussion of A. Wood Renton's paper, "The Legal Test of Lunacy."

Judge A. L. Palmer, of the Supreme Court of New Brunswick, being called upon by the Chair, said:—

I am very glad to meet here with you to-night. I feel that you are doing the cause of law and science a very great benefit in keeping up this society. I look on with very great interest at your noble endeavor to benefit mankind. In reference to the paper, considering the question from a legal standpoint, let me say first, I am surprised at the terseness and ability with which the subject is handled, and I can say in the main, that I agree with

it. I may not correctly understand exactly all the writer means, but I am almost sure that it is impossible for one mind to define insanity in exact language, I mean its exact legal definition, and I think that the attempt to do so will not only be vain, but result in confusion. I may observe that the subject should be judged seriously in a Medico-Legal view and the more scientific knowledge we have on that phase of the subject the better. We have no standard for judging other men, except our own experience and observation. Naturally the observation of a man who has had no experience of a disease of this kind to enable him to decide is I think of very little weight. It is impossible for a man to understand by certain definitions. For a long time it has been said that a man because he was drunk, although his mind was gone, he was not insane, and that in the eye of the law, he was responsible because he voluntarily made himself drunk. I think that is entirely fallacious. The wrong act he did was getting drunk, and depriving himself of his right mind. If he committed a murder, I could understand his not being answerable, although I think he is answerable for getting drunk, but not for all the consequences, not seeing what the consequences would be; therefore, as this paper very tersely says, he has no capacity at the time. In every case it is a question to be decided by the jury, whether the man was capable of making the particular contract he has made. He may make one contract right, but be totally unfit to make another. Therefore it would be impossible, if it was judged that he was insane in that capacity, to question what he has the capacity for.

I hold that every man who owns property has a right to dispose of it for his own benefit, and so long as the law says that it is better in his hands, he has a right to retain it; but on the other hand if he can foresee himself that his mind might become impaired and that his friends should control it for him, and he himself should decide that it was better for him to dispose of it, being in his right mind, by simply doing it to deprive himself of the means of ruining himself, if as he fears his mind weakens he is capable of doing so. If he is capable of testamentary capacity, I think he ought to be able to dispose of his property, also, no matter how weak his intellect is. I have had no occasion to look into this question or define it, but I have endeavored to state some of my views on the subject, that have come to me during my many years of administering the law in the Colony of New Brunswick. I have to thank you, ladies and gentlemen, for your kindness in listening to me.

Judge H. M. Somerville, of the Supreme Court of Alabama, who wrote the opinion in the case of Parsons vs. the State, on call of the President said:—

I will prepare a short paper upon this subject as desired by the President, and will read it at the November session of the Society.

Journals and Books.

L'ANTHROPOLOGIE CRIMINELLE, ET SES RECENTS PROGRES. By Cesare Lombroso. (Felix Alcan, Paris, 1890.)

This distinguished man has now the attention of the world of science, and anything from his pen commands attention. *L'Uomo Delinquente* had arrested scientific thought in all countries, and its author came into the front rank in criminal anthropology.

The present volume is not at all comparable with his former work. It is in the French tongue, and by a French publisher and is gracefully dedicated to BROUARDEL, MOTET and ROUSSEL, and is rather a resumé of the work of the Paris Congress of Anthropology of last year, and of papers published in French, Italian and Russian journals on the topic.

We should not form an opinion of the ability of Lombroso from this volume alone. It is undoubtedly intended to summarize the more important work of the year upon this subject, for the benefit of those students of the science, who can thus in a volume see its progress in Europe without recourse to various and sometimes inaccessible sources.

We see no evidence of change of views in the volume, and in regard to epilepsy he states his prior views still more firmly.

It is interesting to the student of the science to see the review and criticism of so distinguished a writer upon the works of his cotemporaries, upon a theme of which Lombroso is by general consent placed at the head of his school.

The general interest felt in the subject and his utterances, will make the work eagerly sought and read on both sides of the sea.

MASSAGE. By Douglas Graham, M.D.

(I. N. Vail & Co., New York. 2d edition, 1890.)

This work gives a history of Massage and a very general and able statement of its practical value in medical treatment.

The subject is well handled and the author draws from a large number of cases. We can recommend it to medical men desirous of obtaining a knowledge of this branch of medical treatment and of its practical use in the cure of disease.

A THOUGHTLESS YES. By Helen H. Gardner.

(Belford Co., New York. 1890.)

Miss Gardner is a writer of no mean ability, who has thought upon social questions, which are shadowed in the character sketches.

This volume is a bundle of these sketches of unequal merit.

The "Lady of the Club," "For the Prosecution," "Florence Camp-

writer's views, on various social problems now uppermost in the public mind.

The book has as its motto a sentence of Colonel Ingersoll:

"The downcast eyes of timid acquiesence have paid to impudent authority the tribute of a Thoughtless Yes," which has stood sponsor to the name of the volume.

The writer takes a morbid view of the social problems, and a vein of agnosticism runs through, and mars the otherwise fine points of the sketches.

Assaults upon the church, upon religion, upon the well-known lapses of members of churches, do not serve even as a balsam for the ulcers exposed on social questions, and, so far as woman goes, it is safe always before we shatter the faith of one good woman in God, to be quite certain we place in her hands, something at least half as consoling, in the hour of trial, temptation, adversity, and last of all death, as that which she has lost, who changes faith for, agnosticism.

HYGIENE ET TREATMENT DES MALADIES MENTALES EL NERVEUSE. By Paul Kowalewsky. Professor of Psychiatry and Nervous Diseases and Editor of "Archives of Psycho-Neurology and Legal Psychopathalogie," Tcharkoff, Russia. Translated from the Russian by Dr. Wladimir de Holstein. Felix Alcan, Paris, (1890).

The scientists of Rrussia who write in their own tongue have only Russian readers except when their works are translated.

While the Russians are justly ranked as the ablest linguists of the world they are like the Dutch in this respect, that none read the native work save the people of their own country. We do not know any man of science outside of Russia, who has mastered the Russian tongue.

Prof. Kowalewsky has won a prominent place among Russian students of Mental Science, and his fame has gone beyond his country.

We are glad to see this French edition as it will give to the literature of the world his valuable views.

The subject is admirably treated, and is one with which the author is wholly familiar.

BOOKS, JOURNALS AND PAMPHLETS RECEIVED.

DR. ALBRECHT ERLENMEYER—Steigerung der Allgemeinen Reflexerregbarkeit, als. Ansergewöhuliche. Chimu—Werkeing (1890).

F. A. DAVIS & CO.—Phil, 1890; 2d Ed. Ointments and Oleates in Diseases of the Skin, by Dr. John V. Shoemaker—Epilepsy, Its Pathology and Treatment, by Hobart Amory Hare, M. D.

ROBERT NEWMAN, M. D.—Programme, Berlin Medical Congress (1890).

DIE FLAMME (Berlin, 1890)—Nos. 47, 49, 50 and 51.

EYRE AND SPOTTISWOODE (London)—Forty-Fourth Report of the Commissioners in Lunacy, England (1890).

DOUGLASS GRAHAM, M. D.—A Treatise on Massage; Second Edition, New York (1890).

MRS. MARY HINMAN ABEL—Practical Sanitary and Economic Cooking, Adapted to Persons of Moderate and Small Means. The Lamb Prize Essay (1890).

MENA DREW—Hints on Nursing, London (1890).

H. O. JEWETT, M. D.—Medicine Past and Present.

G. P. CONN, M. D.—Railway Hygiene (1890).

W. P. SPRATTLING, M. D.—The Treatment of the Acutely Insane in General Hospitals. Reprint from the Medical Record (1890).

INTERNATIONAL AMERICAN CONFERENCE—Report and Recommendations concerning Sanitary and Quarantine Regulations in Commerce with the American Republics (1890).

Report and Recommendations concerning a Plan of Arbitration for the Settlements of Disputes between the American Republics (1890).

Report and Recommendations on Postal and Cable Communications with Central and South America (1890).

AMERICAN PUBLIC HEALTH ASSOCIATION.—Preliminary Announcement of the Eighteenth Annual Meeting (1890).

ARTHUR MCDONALD, Ph. D.—Recent Criminological Literature (1890).

ROBERT FUNKHOUSER, A. M., M. D., LL. B.—A case of Multiple Neuritis (1890).

DR. LEWIS D. MASON.—An Address delivered at a meeting of the American Association for the Study and Cure of Inebriety (1890).

F. J. CRONER, B. S., M. D.—The Causes and Remedies for Suits for Malpractice (1890).

CHARLES J. LUNDY, A. M., M. D.—Hypodermic Medicine in Diseases of the Eye (1890).

GEORGE W. CHILDS.—Recollections of General Grant.

PROF. DR. L. WILLE (Basel.)—Report of Basel Lunatic Asylum.

M. GUSTAVE CORREVON (Lausanne.)—Report of the "Societe de La Solidarite" (1886).

Report prepared for the Fourth International Criminal Congress (1890).
Bulletin of the "Societe La Solidarite"
Notice of Madame Lina Beck—Bernard (1888).
The Penal Code for Canton de Vaud (1879).

S. KORSAKOFF (Russia.)—Collection of Articles on Neuropathology and Psychiatry, dedicated to Prof. Alexis Kojeoni Roff by his pupils.

Alcoholic Paralysis, Mental and Nervous Diseases, Pathological Disorders of Memory, Free Will, Spinal Paralysis in result of Atrophy, all by S. Korsakoff.

MAGAZINES.

THE LAW QUARTERLY REVIEW.—The July number contains an admirable paper on "The Legal Test of Lunacy" by A. Wood Renton, Esq.; a review of Mr. Kenelm Digsby's article on the "Law of Conspiracy in England and Ireland" by Mr. J. G. Butcher; and an interesting paper on "The Maritime Conference at Washington" by F. W. Verney, a delegate for the Siamese Government.

THE ASCLEPIAD.—Dr. B. Ward Richardson still throws his vigorous personality into this admirable journal, written wholly by himself. He gives a portrait of Dr. James Black, the eminent Scotch chemist who died at the close of the last century, in the July number, and a sketch of his career.

Dr. Richardson, in commenting on Kemmler's execution, condemns the operation strongly, but insists that "Kemmler *suffered nothing*" and "*was not subjected to agony.*" He strongly opposes electrical executions, and protests against the use of the lethal chamber which he invented for such a purpose.

He strongly opposes capital punishment. Those who are opposed to capital punishment for crimes take exceptions, as a rule, to the method employed, whether the axe, the rope or the electric fluid.

Dr. Richardson fully understands the subject and what must be expected from muscular action.

BULLETIN DE LA SOCIETE DE MED. MENTALE DE BELGIQUE.—The June number, 1890 (No. 57), contains, besides the transactions of the April session, the conclusion of the interesting statistical article of Dr. Peeters on "La Paralysie Generale," at Gheel, for the Colony of the Insane there; an extended Review of the French, German, Italian and English Journals of Neurology, Psychiatry and Mental Science; also the letter of the Belgian Minister of Justice, regarding the dangers of Public Exhibitions of Hypnotism, and the proposed law submitted in the name of King Leopold, interdicting such exhibitions.

MAGAZINE OF AMERICAN HISTORY.—The September number contains a portrait of the late Judge Amasa J. Parker and a sketch of his life, from the graceful pen of the accomplished editor, Martha J. Lamb.

BUFFALO MEDICAL AND SURGICAL JOURNAL is ably edited by Thos. Lothrop, M.D., and Wm. Warren Potter, M.D., and an able corps of associate editors. It commenced its 30th volume in August, 1890.

THE ARENA.—The Notes on the Liberty of Citizenship Imperiled, by half a dozen of our sound thinkers on the case of Dr. Reid, tried in Michigan, furnish food for reflection.

HON. EDWARD EDMUND BERMUDEZ,

CHIEF JUSTICE OF LOUISIANA.

Chief Justice Bermudez was appointed to office by Governor Wiltz, the first Governor elected under the constitution of 1879. The court was then new. None of the members of the preceding court, who had gone into office under the administration of Governor Nicholls, was retained, and none of the justices appointed by Governor Wiltz had ever occupied a judicial position.

Before the appointments of the justices of the Supreme Court were made by Governor Wiltz, the eyes of the public were fixed on Mr. Edward Bermudez as a lawyer eminently fit to fill the distinguished office of Chief Justice, and much satisfaction was felt when it was ascertained that the Governor had not disappointed public expectation.

Mr. Bermudez was a creole, that is a native-born Louisianian, of ancient and distinguished Spanish descent; he had received a thorough classical education at Spring Hill College, Alabama, where he graduated in the year 1851.

While a student of law he manifested those mental qualities which are premonitory of professional success. He came to the bar at the early age of twenty-one years, and in 1876 received the degree of L.L.D. In a very short time it was evident that he was born a lawyer, and was possessed of a mental organization strictly legal; success at once attended his efforts, and his forensic reputation continued to increase until he was removed from the forum to adorn the bench.

Very truly yrs
E E Burnett

His practice at the bar was extensive and lucrative; the causes in which he was engaged required the examination and discussion of the principles underlying every branch of law, and hence he became familiar, not only with the civil law peculiar to Louisiana, but with commercial, criminal and constitutional law. He was lawyer par excellence, a master of the civil law; the profession then recognized in him, as it does now, one of the most learned, accomplished and profound civilians in the State.

With this prestige and with robust health, Mr. Bermudez assumed the judicial ermine at the age of forty-eight.

During the regime of reconstruction Governors, elected to office under the reconstruction constitution of 1868, the delays in the administration of justice had so crowded the docket of the Supreme Court that an ordinary case could not be reached in due course for two or three years after the transcript of appeal was filed. The court appointed by Governor Nicholls in 1877, had not remained in office long enough to arrest the congestion.

Chief Justice Bermudez, endowed with breadth of intellect, with a strong and determined will, and with a capacity for labor only equalled by his love of the study and the investigation of legal principles, made such inroads on the accumulated business of the court, that the mountain of cases has disappeared. Now, and for several years past, a cause is called for argument in the Supreme Court of Louisiana within a month after it is entered on the docket, unless it be delayed by vacation.

When at the bar Chief Justice Bermudez was distinguished by a keen sense of honor, and was governed by a high standard of professional ethics. On the bench

he is characterized by the most stringent honesty and integrity. He has the faculty of penetration and sagacious observation, as well as the gift of a nice and correct discrimination. He excels in analyzing and deducing the complicated parts of a subject, sees everything in the daylight of truth, unaffected by the coloring imparted by the imagination.

His opinions are clear and terse; he may be said to write with his muscles. In his style there is coherence, order, method; but it is a concise, rapid style, sometimes advancing in a series of epithets, and in sentences short and sharp.

On the whole, the people of Louisiana are well satisfied with their Chief Justice, who has discharged the duties of his high office for ten years with distinguished ability and impartiality.

He was elected a member of the Medico-Legal Society in 1888 and takes an active personal interest in its labors.

He was a delegate from that body to the French International Congress in Paris in 1889 and was made an Honorary Vice-President of that Congress.

He also represented that Society in the Paris Congress of Criminal Anthropology of 1889.

Judge Bermudez was treated with great courtesy and distinction by the high Cour de Cassation of France, during his visit in 1889, and was invited by the presiding justice of that court to sit with the judges of that tribunal, a rare honor to a foreign judge, which he accepted on two occasions.

He is Vice-President for Louisiana of the American International Congress of Medical Jurisprudence to be held in 1892.

EMINENT AMERICAN MEDICAL MEN AND ALIENISTS IDENTIFIED WITH THE LABORS OF THE MEDICO-LEGAL SOCIETY.

We reproduce one of the groups of representative Medical Americans and Alienists recently issued in the series that have been issued by the MEDICO-LEGAL JOURNAL. The club is one of about twelve groups thus far issued, embracing, thus far, distinguished members of the medical profession and of the bench and bar. Among these are two groups of the Chief Justices of the State Supreme Courts, four of eminent legal and judicial portraits, three of medical men of eminence, the Supreme Court of Connecticut, and one of notable women of the Medico-Legal Society and the International Medico-Legal Congress. These will be followed by others of the American and British States and Provinces, and by the leading men of England, France, Germany, Italy, Russia, Scandinavia, Spain and of the Spanish-American countries.

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THE LEGAL CULPABILITY OF THE "CRIMINAL INSANE." *

THE TRUE TEST.

By Henderson M. Somerville, late of the Supreme Court of Alabama.

I have read the paper of A. Wood Renton, Esq., of London, on "The Legal Test of Lunacy," with great interest. This interest is emphasized by the fact that the subject is one which is now, more and more every day, inviting the attention and research of the most advanced thinkers in the medico-legal world.

The writer speaks of the "silent revolution" which is now going on in reference to the doctrine of the legal culpability of a class commonly designated, for want of a better nomenclature, as the "criminal insane." The readers of the *Medico-Legal Journal*, especially for the past three or four years, cannot fail to be struck with the truth of this observation. The number of papers recently published therein from the most learned alienists in this country and in Europe forcibly attest the fact. Germany, always in the vanguard of scientific as of religious thought, has long since formulated in her criminal code of laws the proposition that "there is no criminal act, when the actor at the time of the offense is in a state of unconsciousness, or morbid disturbance of the mind, through which the *free determination of his will is excluded.*" (Code of Germany, § 51, R. G. B.) The Code of France, as now interpreted by the courts of that country, is, in substance, the same. The legal profession in each of these countries has advanced to the

* Read before the Medical-Legal Society, November 12, 1890.

progressive view, for the maintenance of which the medical profession had battled vigorously for more than a quarter of a century.

The same contest is now going on in this country and in England. It is the same old fight of Science against the crystallized prejudices of error and ignorance. The united medical world, with comparative unanimity, proclaim as a discovered fact that the wards of insane hospitals are crowded with inmates who are capable of distinguishing right from wrong, and who yet, through the influence of brain-disease, are rendered powerless *to choose* the one and refrain from the other. I instance the following extract from the last *Biennial Report* (1889) of Dr. Peter Bryce, who has been the Superintendent of the Alabama Insane Hospital for the past thirty years, and is recognized as one of the foremost alienists in this country in the treatment of the insane. It voices the views of his profession :

"The thousand patients," he observes, "now under treatment in our own Hospital, and thousands of others who have filled its wards during the past twenty-eight years, furnish unmistakable evidence, even to ordinary observation, of the fact that persons of diseased brains, affecting the mind, may be capable of distinguishing the moral and legal quality of a criminal act, and yet not be able to abstain from its commission. They know the right from the wrong, and do not hesitate to avow it, but they cannot choose between the two, and often deplore this inability to control their actions. It would, it seems to me, be a backward step, in both humanity and science, to place these victims of disease in the same category with ordinary convicts in whose behalf no such plea can be interposed. The whole question is one of *disease,* or *no disease,* to an extent which practically

destroys the patients' power of self-control. The medical profession," he concludes, "is almost unanimous in its repudiation of the right and wrong test of this disease, and the interests of society, humanity, and science would, in my judgment, be promoted by the adoption of the same view by our courts of justice."

The case of *Parsons v. The State*, 81 Ala. 577, alluded to by Mr. Renton, was decided by the Supreme Court of Alabama in June, 1887, having thus been promulgated about two years before Dr. Bryce's report. To this case he alludes, and gives it his earnest indorsement. The doctrine of that deliverance was a repudiation of the "right and wrong test," as adopted in *McNaghten's case*, decided by the English judges, and the indorsement of the modern view that no insane person, who, through disease of the brain, has lost the power to choose between the right and wrong, and to avoid doing the act in question, is legally culpable or accountable.

This decision is merely a step forward in the direction pointed out by modern medical science in its relations to the subject of insanity. It was long ago announced by the learned Dr. Ray, of England, who approved the charge in Haskell's case, in these words : "The true test lies in the word *power*. Has the defendant in a criminal case the power to distinguish right from wrong, and the *power to adhere to the right and avoid the wrong ?*"

We cannot expect the rapid adoption of this new view by the courts. As Mr. Renton's paper intimates, if it ever obtains in England, as I believe it certainly will in due course of time, it must be through the means of legislative enactment, as in Germany and France.

In this country the "silent revolution" is advancing with the progressive energy of Truth ; which is, and ever must be, the great motive power of Science. In the con-

test before us we can derive much hope from the past history of the struggles of Science against Ignorance, mailed, as the latter is, in her iron coat of arms. As Mr. Fox once declared on the floor of the British Parliament, "this is a case where one *fact* is worth a thousand arguments." When that psychological fact is believed, the battle will be won. When Charles Darwin, now justly called the Newton of Biology, first announced his theory as to "the origin of species," just thirty years ago, it was received with a storm of indignation and ridicule from pulpit, press, and politician. Ten years later it was accepted by the scientific world to such an extent that Professor Huxley declared before the Royal Institution of Great Britain that he had begun to think that "it would shortly require for its welfare a little healthful opposition." Darwin attributed his success to his habit of "patiently accumulating and reflecting on all sorts of *facts*" which could possibly have any bearing on his theory.

So with the triumph of the Copernican theory of the universe, once a sealed book even among scientists, now understood by every schoolboy. When Copernicus, and Kepler, and Newton were laboring to conquer the astronomical prejudices of the whole world, religious and scientific, human ideas had not widened sufficiently to comprehend the great thought.

The same is true of geological science. Its advocates had to forge its way to the front through the serried ranks of ignorance, as the Roman eagles were carried through the hostile fields of Scythian and Barbarian. The religious world declined to believe that the globe upon which we live was older than six thousand years until some forty years ago, when the fact was logically proved

in Hugh Miller's "Testimony of the Rocks" that its age might be measured by millions of years.

Law reforms are proverbially slow. Revolutions in this realm of thought always move with abated energy. The Bar and the Parliament of England long resisted the introduction of the *lex mercatoria*—the established rules and customs of merchants—into the jurisprudence of the common law. So with the various legal reforms for which Lord Brougham so ably contended, many of which are now recognized as happy and useful innovations in our system.

The modern view of insanity, with its scientific rule, as to the legal culpability of "the criminal insane," is destined to a sure triumph in the future.* It is based on the solid and imperishable foundation of Truth, whose hand-maid is "starred-eyed Science." Error may die amid her worshippers. But not so with Truth; "the eternal years of God are hers."

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* It is a fact pregnant with some encouragement, that a half dozen or more of the American State Courts of highest resort have given their unqualified adhesion to it, and the United States Supreme Court, in the case of Life Insurance Co. v. Terry, 15 Wallace, 580, have made a decided advance in the same scientific direction.

IS "THE MERE STATE OF DRUNKENNESS" NOT "AN EXCUSE FOR CRIME?"

By A. Wood Renton, Esq., Barrister-at-law, London.

Mr. Crisp Poole has devoted a considerable portion of his able paper on the *Ipswich murder trial* (in the June number of the Medico-Legal Journal) to insisting upon and justifying an alleged legal distinction that accepts delirium tremens, but rejects mere inebriety, as an exculpatory plea in criminal cases. This may be an accurate statement of the law of Queensland. On that point Mr. Poole is, and I am not, qualified to offer an opinion. But it is an incomplete and misleading exposition of the law of Great Britain and Ireland. Of course I admit that the *litera scripta*, at least in its earlier pages, is against me, and it must not be supposed that British lawyers have reverted or ever will revert, to the Maria-Theresan doctrine that "an individual in a state of drunkenness is incapable of offense." But we have had "a recent judicial departure" with regard to the criminal responsibility of inebriates, notwithstanding. Briefly stated, the English law of inebriety in relation to crime has had the following history. We start with Coke's doctrine that the drunkard is a *voluntarius dæmon* who "hath no privilege thereby, but what hurt or ill so ever he doeth, his drunkenesse doth aggrevate it." At the hands of Lord Hermand, a Scotch judge of the old school, that was happily displaced at the beginning of the present century by the school of Jeffrey, Cockburn and Moncrieff, Coke's doctrine received a

* Read at Medico-Legal Society, December Meeting, 1890.

somewhat curious interpretation.* Two young gentlemen, who were great friends, went together to the theatre in Glasgow and thereafter supped at the lodgings of one of them. They passed the whole night drinking rum. In the morning they quarrelled; one was fatally stabbed, and the other was, in due course, tried and convicted of culpable homicide. The majority of the judges that presided over the trial were in favor of only a short sentence of imprisonment. But the voice of Hermand was loud for transportation. Himself an ardent drinker, he felt that the reputation of drunkenness was at stake. "We are told," he said, "that there was no malice and that the prisoner must have been in liquor. In liquor! Why, he was drunk! And yet he murdered the very man who had been drinking with him! They had been carousing the whole night, and yet he stabbed him, after drinking a whole bottle of rum with him! Good God, my Laards (Lords), if he will do this when he's drunk, what will he not do when he's sober?"

Happily, the *voluntarius dæmon* theory, even when fortified by the ingenious reasoning of Lord Hermand, did not take permanent root in the criminal law of this country. In 1867 Lord Deas established a new principle.† An Aberdeenshire proprietor habitually and irreclaimably addicted to drinking caused the death of his wife by stabbing her with a carving knife admittedly on very slight provocation. The defense was that at the time of the alleged act the prisoner was insane. There was, in fact, no considerable conflict of evidence, medical or other. The habit of constant drinking to excess, carried

* Cp. Henry Cockburn's "Memorials of his own time," p. 139.

† Irvine's *Justiciary Reports*, vol. 5, 479, and Professor Gairdner's "Drunkenness and Dipsomania," in the *Birmingham Medical Review*, Jan. 1890.

on for more than twenty years, had produced not indeed well-marked insanity but only such an amount of weakness of mind as was apparent to several witnesses, and even to his own lawyer in going over his correspondence so that he regarded him "at times as not quite sane." The facts of the case showed that the homicidal assault upon his wife took place *when he had had liquor, but was not obviously drunk, and that it was probably provoked by his displeasure of her having "hidden a pint bottle of whiskey and some money on the night in question to prevent him from getting more drink.*"

Lord Deas said: "There remained the question whether the offense was anything short of murder. It was difficult for the law to recognize it as anything else. On the other hand, however, he could not say that it was beyond the province of the jury to find a verdict of culpable homicide if they thought that was the nature of the offense. The chief circumstances for their consideration with this view were, first, the unpremeditated and sudden nature of the attack; second, the prisoner's habitual kindness to his wife, of which there could be no doubt, when drink did not interfere; third, there was only one stab or blow—this, while not, perhaps, like what an insane man would have done, was favorable to the prisoner in other respects; fourth, the prisoner appeared not only to have been peculiar in his mental constitution, but to have had his mind weakened by successive attacks of disease. It seemed highly probable that he had a stroke of the sun in India, and that his subsequent fits were of an epileptic nature. There could be no doubt that he had had repeated attacks of delirium tremens, and if weakness of mind could be an element in any case in the question between murder and culpable homicide, it seemed difficult to exclude that

element here. The state of mind of a prisoner might, his lordship thought, be an extenuating circumstance, although not such as to warrant an acquittal on the ground of insanity; and he could not, therefore, exclude it from the consideration of the jury here, along with the whole other circumstances, in making up their minds whether, if responsible to the law at all, the prisoner was to be held guilty of murder or of culpable homicide." The jury found the prisoner guilty of culpable homicide, and he received a sentence of ten years' penal servitude.*

The precedent thus set by Lord Deas has, in recent years, been repeatedly followed in England by Mr. Baron Pollock and Mr. Justice Day. The reader will find ample proofs of this assertion in the second edition of Dr. Norman Kerr's *Inebriety.*

* Lord Deas informed Professor Gairdner that he has applied the same principle of a modification of the penalty in accordance with weakness of mind short of legal insanity, so as to reduce a sentence which might probably have been one of penal servitude to one of six months' imprisonment.

Cp. also. *H. M. Advocate v. Andrew Granger.* Sept., 1878. *Scottish Law Reporter,* vol. xvi., p. 858.

*MORAL INSANITY.**

By W. P. Spratling, M.D.
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In view of the many controversial warfares that have been waged at various times concerning the question of existence of such a disease of the mental faculties as moral insanity, it is essential to ask early in this paper whether our knowledge upon this subject at this time leads us to testify in favor of, or against, its existence. If, after careful inquiry upon the subject, we find emanating from competent and indisputable authority affirmative evidence sufficient to establish its existence, we naturally have to inquire, what constitutes its distinguishing features?

It is extremely difficult to satisfactorily answer such a question. It is difficult to so frame an answer that it shall embody the clearest, and most comprehensive symptoms of this affection, so that they will satisfy both physician and jurist, and, at the same time procure for all the greatest degree of common justice.

A desideratum of infinite value lies in the solution of this problem, the attainment of which, none will deny, is eminently difficult.

Along this line the line, of establishment and proportionate responsibility in this mental disease, battle can be easily and freely fought by the students of psychology on one hand, and the members of the bar on the other. In endeavoring to answer this question we must not be

* Read before New York Medico-Legal Society, Dec. 10th, 1890.

blind to the fact that it is one in which both the psychologist and jurist feel an interest equally keen. As to the existence of moral insanity, we freely believe that it does exist. Ample evidence that comes from convincing sources can be produced to justify such a belief.

If it is of paramount importance, for three distinct reasons, why it should be alike scientifically and legally recognized.

First. It is humanely important because its recognition would in no small degree subserve to find, and establish, the aim that endeavors to secure common justice for all.

Such justice is but the inherent right of every man, woman and child. The constitution of the commonwealth under which they live was purposely established to procure for them this inalienable possession. Suppose a person guilty of a crime, and suppose that person at the time of the commitment of that particular crime be an irresponsible agent by reason of some mental defect or obliquity. Such a person surely should not suffer the prescribed punishment of the law in the same manner that evil doers suffer whose mental organization and condition, as regards sanity or insanity, admits of no questioning.

Secondly. Moral Insanity should be recognized. Because, it is but right that a just recognition be made of the labor and knowledge of those whose researches have been confined to the field of morbid mental action and whose observations have made known its existence.

Some may consider this reason inadequate, and too far removed from the interests of the individual whose acts may be in question, as having no practical bearing upon the personal welfare of the law breaker. Should such a charge be made, we would answer that if those who labor

to find how far a man is responsible for the deeds committed in violation of protective laws, do so honestly, and with the sole intent of doing what is but just to mankind, then it is perfectly right, if selfish motives be fairly excluded, that their good purposes and honest efforts be recognized.

Thirdly. It is important that Moral Insanity be recognized. Because, it will broaden the field in which judicial clemency may be righteously exercised, and bring additional credit to the majesty of the law. It may be argued that already the field that invites judicial clemency, is too broad; but, nowhere should we be able to find so anomalous an individual as one who could declare in favor of inflicting punishment upon an irresponsible malefactor.

In the study of moral insanity, we must respect the vast diversity of opinions that have come from men distinguished in the world of science.

Likewise, we must respect the opinions of the Jurists, whose jurisdiction transcends that of the psychologist when it came to the final disposition of one who has fractured statutory law and is on trial for the same. Perhaps no man has so truly painted in verbal colors moral insanity in its every detail as Maudsley has done. In his "Responsibility in Mental Disease" he writes upon it at some length, and I can do no better than quote a few sentences from this distinguished author.

"This," says Maudsley, "is a form of mental alienation which has so much the look of vice or crime that many persons regard it as an unfounded medical invention. Notwithstanding prejudices to the contrary there is a disorder of mind in which without delusion, illusion, or hallucination the symptoms are mainly exhibited in a perversion of those mental faculties which are called the

active and moral powers—the feelings, affections, propensities, temper, habits and conduct."

By this, we see that those symptoms, viz., delusion, hallucination, illusion, which usually most strongly characterize the existence of most forms of insanity, have no place in moral insanity. Moral insensibility, as the one distinguishing feature, stands isolated and supreme.

"The intelligence," says Maudsley, "is often acute enough, being not affected otherwise than in being tainted by morbid feelings, under the influence of which the persons think and act; "indeed," he adds, "they often display an extraordinary ingenuity in explaining, justifiying or excusing their behavior, exaggerating this, ignoring that, and so coloring the whole to make themselves appear as victims of misrepresentation and persecution. The victim of moral insanity, the writer further observes, is "incapable of following a regular pursuit in life, of recognizing the ordinary rules of prudence and self-interest, of appreciating the injury to himself which his conduct is. He is as distrustful of others as he is untrustworthy himself. He cannot be brought to see the culpability of his conduct which he persistently excuses or justifies; his affective nature is profoundly deranged and his affinities are for such evil gratifications as must lead to further degradation, and finally render him a deceased element, which must be got rid of out of social organization, or be sequestered and made harmless in it."

But how, many will ask, after hearing the above symptoms enumerated, are you going to distinguish between moral insanity, and the normal condition, motive, and the desires of a person who is naturally wicked, socially perverse and criminal? The answer is simple,

and comes not from theoretical fancies, but from what are now held to be facts. In moral insanity, it is just as essential that organic disease, deficiency, or some abnormal condition of the mind making parts he present, as it is to have some one of these factors in other insanities. This disease or deficiency in the elementary psychic forces of an individual, may be either congenital or acquired. The congenital form appears to be more complete in its charater. In this form, no element or subdivision of the moral constitution seems to escape the taint imposed by hereditary moral defects; while in the acquired form, the base of moral obliquity is not so great. In view of this statement the question, How do we not know but that all persons guilty of vice or crime may be organically lacking in such elements, that, did the elements exist, moral defects would not be seen? The ancestral history of every case is an important consideration in studying the question of differentiation. There is nothing more positive in man's organic nature than the bequests of heredity; and it matters not what his education or the tutelage of his environments may secure for him, any defects he may possess must at times lie exposed on the surface of his action and life. There is one broad distinction between moral imbeciles, or the subjects of moral insanity, and the lower strata of mankind who willingly and with deliberate purpose do misdeeds; and that difference lies in the comparative intellect of the two. In cases of moral insanity, the intellect is nearly always found to be good, oftentimes brilliant. They may be wonderfully clever in the arts, sciences, and bear the polish of good society, yet the measure of their moral powers is so low as to rob them of every charm. Such cases recognize their infirmity, and shield it with shrewd and plausible ways and explanations. They

distinctly see and understand the difference between right and wrong, but *that*, in their nature, which should be present *to enable them to resist* the commitment of evil deeds and inhibit the utterance of speeches they know to be false, *has never existed*, or *has been destroyed*. The order of intellect to be found among ordinary criminals and law breakers, as a rule, is far inferior to the intellect of those morally insane. The two move in a different sphere in life. The latter is totally indifferent as to what his sociological surroundings are. His moral obtuseness prevents him from ever properly defining his position. This is not so with the former. They studiously avoid the lights of the world, so to speak, and their misdeeds are done in secrecy. They fully appreciate the fact, that honest men abhor them, and they zealously seek to blind the eyes of the law in the commission of overt acts.

Intellectual power, and the power of self restraint, comprise two of the most important factors for study in the consideration of this question.

Intelligence, with the morally insane, when exercised along the line of action he intends pursuing, or involuntarily pursues, does *not* teach him that what he would do, or is doing *is wrong*. His moral powers are dead. Intuitive moral feelings do not exist in his nature; and, for that reason he should *not* be held responsible for what is beyond his every effort to prevent. Then again, in other cases, the man who is morally insane, may *fully understand* that what he would do, or is doing, is wrong, and in violation of law and society; but he could not resist the impulse to do evil, because he undoubtedly is suffering from a *paralysis*, or *deficiency* of the *psychical inhibitory forces*, and absolutely without the slightest feeling of self-restraint, which he may honestly desire to exercise,

he takes a false step. This man likewise should not be harshly adjudged, for *not* as a free agent has he been guilty of crime but as the victim of an ignorant motive, engrafted upon evil powers that are instilled with no response.

With the ordinary criminal it is totally different. His intellect does not play him false. It permits him to always, under normal conditions, regulate his actions in a manner that he reasons best for his purpose. His powers of self-restraint are not diseased. He can easily leave undone what he has planned, should new developments teach him that it is unwise. Shrewd precautions for personal safety are taken by him at every step. He recognizes when he has been guilty of crime; he understands its consequences, and studiously seeks to avoid detection.

These points of differentiation, as far as we are able to give them at present, seem to designate the chief distinctions between moral insanity and the purely criminal and wicked. Of course, no hard-and-fast rules can be laid down to guide us in the solution of this important p oblem. Every case, as it stands before science, or before the bar of legal justice, must abide by the decision that is made after consideration of its individual merits. We would be gratified to have moral insanity encouraged because its recognition would at some time temper the sentence that would otherwise be imposed in all its severity upon some irresponsible law-breaker.

We would like to see it recognized, for the reason that science might rejoice over an additional benefit bestowed upon mankind. "To err is human." To find the true cause of human error, and to render judgment accordingly, is not far from divine.

*SUDDEN AND UNEXPECTED DEATH.**

By Geo. D. Wilcox, M. D., of Providence, R. I.
Ex-President of the Medico-Legal Society of Rhode Island.

According to statistics upwards of 3,000 sudden deaths occur year by year in England and Wales from causes not ascertained.

It is highly important for those who pursue Medico-Legal Investigations to be well acquainted with the various diseases and pathological conditions on which such a termination depends.

It is worthy of observation that inflammatory and infectious diseases may run a *latent* course continuing for a longer or shorter period without manifesting any serious symptoms whatever, and yet terminate in sudden or unexpected death. A typhus ambulatorius has long been known, and according to the observations of Prof. Hofmann, of Vienna, pneumonia, peritonitis, and meningitis ambulatoria are met with in all their different stages, some dying in the midst of their work. Pneumonia has been observed to run this latent course most frequently.

One case is referred to of a young and vigorous man while on the way to his work fell dead in the street from latent meningitis.

Lesser cites a case of a person who, while in the act of washing himself, died suddenly from peritonitis occasioned by a perforating ulcer.

A circus clown died in the midst of his performance. The autopsy revealed an immense single tubercle of the brain.

*Read before the Medico-Legal Society, December 10, 1890.

The causes of sudden or unexpected death excluding violence, suicide, poisoning, drowning, etc., are mostly to be found in the brain, spinal cord or in the organs of the chest. A few in the abdomen:

In the brain, congestion and hyperæmia, anæmia (very frequent), hæmorrhage, exudation of serum, seldom in sufficient quantity to produce death; pressure on the brain or medulla oblongata, concussion, meningitis.

Sudden fright which may be considered as a form of concussion.

I have met with one case in private practice, that of a young child, eight or nine months old, found dead in its crib in the morning, in which cerebral anæmia was found on autopsy. Both the white and gray substance of the brain were white as snow.

Also one case of death by fright in an elderly woman occasioned by her dwelling being broken into at night. Death was instantaneous, no autopsy.

Dr. Abercrombie, in his work on the brain, describes several cases of persons dying with all the appearances of apoplexy without any morbid appearance of the brain after death.

"A woman, aged about 30, of a full habit, some years before her death had been affected with symptoms in the head, accompanied by impaired speech, and partial loss of recollection. Some effects of this attack had continued for a considerable time, especially in her speech, but by degrees she had perfectly recovered and enjoyed excellent health for a long period preceding the attack now to be described. She was stooping over a washing tub, when she was seized with a violent fit of sneezing; she almost immediately became insensible, and would have fallen down, had she not been observed and supported by some persons standing by her, who carried

her to bed in a state of perfect apoplexy. All the usual remedies were employed in the most active manner without the least effect in alleviating any of the symptoms, and she died on the following day. On inspection no vestige of disease could be discovered in the brain, or in any other organ." The doctor says, "I abstain at present from any speculations in regard to the nature of this remarkable affection."

In a series of Medico-Legal Examinations which I attended in Vienna in the winter of 1884-5 occurred the following cases :

A female, aged 20, was found dead in bed in the morning, purulent meningitis, small quantity of pus and fibrine, purulent salpingitis affecting both tubes.

A boy five years old, purulent meningitis, milky cloudness of the pia mater. The stomach contained a mass of potatoes and pickle which had been recently eaten.

A boy aged six, purpura simplex on the lower extremeties, was taken with vomiting in the night, died in the morning, basilar meningitis.

A girl of ten years with a large rachitic head supposed to be hydrocephalic, lateral ventricles dilated but contained no fluid. A slight trace of basilar meningitis, pus globules were found under the microscope, spinal cord was removed and found normal and no disease in any other organ.

A woman forty-one was unconscious for one day, was brought into the General Hospital just before death. Convolutions of the brain markedly flattened, on separating the hemisphere at the longitudinal fissure the corpus callosum was strongly arched and on incision a quantity of clear serum was discharged. A degenerated

cystocircus sack was found under the corpus callosum and projecting into both ventricles.

Heart and bloodvessels: valvular insufficiency, rupture of heart, fatty heart, brown atrophy or granular degeneration of the substance of the heart, dilatation and hypertrophy, rupture of aneurisms, artheromatous degeneration of the aorta and more particularly of the coronary arteries, entrance of air into large veins as in operations on the neck and into the uterine veins after the separation of the placenta, acute cyanosis.

Causes of sudden death referable to the heart and bloodvessels are valvular insufficiencies, rupture of the walls of the heart, fatty degeneration of the muscular tissue of the heart, brown atrophy or granular degeneration of the substance of the heart, dilatation and hypertrophy, rupture of aneurisms, artheromatous degeneration of the aorta and more particularly of the coronary arteries, entrance of air into large veins, as in surgical operations on the neck, likewise into the uterine veins after the separation of the placenta, acute cyanosis.

I have myself had one case of spontaneous rupture of the left ventricle of the heart in an elderly man whose heart was extensively infiltrated with fat. In another instance occurring in private practice one of the curtains of the tricuspid valve was completely torn through at its base, also one case of the formation of a fibrous clot in the left ventricle of the heart during an attack of acute rheumatism, and in which the fibrine of the clot was intimately and firmly entangled amongst the chordæ tendinæ, and one case of sudden death resulting from brown atrophy of the heart.

In the respiratory organs, occlusion of the air passages by foreign bodies, tough mucus, etc.; spasm of the glottis; the sudden bursting of an abscess or an empyem

into the bronchial tubes, œdema of the lungs, large and rapid effusion of serum or entrance of air in the thoracic cavities, pneumonia, and likewise bronchitis in their varied forms ; the formation of extensive fat embolie into the air cells of the lungs, connected in some mysterious way with fracture of the bones.

One case of sudden death from acute œdema of the lungs has fallen under my notice. The patient, an apparently robust female, lived only twenty or thirty minutes after the commencement of dyspnœa. A moderate insufficiency of the bicuspid valves was also present.

Among the Vienna autopsies were thirty-six cases of pneumonia and bronchitis causing sudden death. By far the larger number of cases were those of infants and children. The cases of bronchitis were, in fact, all children.

An elderly man died rather suddenly, and with only slight symptoms of illness from lobar pneumonia in the right lung.

A little girl four years old, complained of belly ache; laxative medicine was given, then a quack was called in who prescribed some powders. The patient began to vomit and to purge and soon died. The capillaries of the pia mater and of the gray substance of the brain were injected. A beginning meningitis, pneumonic infiltration of the lower lobe of the right lung, and plastic exudation on the right pleura.

A babe of four months, bronchitis and numerous patches of collapsed lobules in the right lung.

A child, fifteen months old, a large part of the left lung atalectic, complicated with catarrhal pneumonia. Both lungs adherent to the walls of the chest.

An infant of six weeks, lobular pneumonia at the base of both lungs.

A man, aged fifty-six, had slight fever in the evening, found dead in bed the next morning, pneumonia dexter, hypertrophy of the heart.

A woman, aged thirty-six, run over by a horse-car, was treated in the General Hospital, dying at the end of six days. The tarsal and metatarsal bones of the foot were crushed. Fat embolism was found affecting both lungs. In the abdomen peritonitis, gastro-enteritis, a rupture of the sack of an extra-uterine pregnancy and a retro-uterine hematocele. This case afforded a superfluity of causes for producing a fatal termination. I have mentioned it on account of the presence of the fat embolic.

A girl nine years old had a fall while performing some gymnastic exercises. No external injury. The capillaries of the pia mater were injected, brain œdematous, general peritonitis, a small quantity of pus in the region of the cœcum. An intestinal concretion was found lodged in the vermiform process which had caused a perforation. Had only complained of being unwell for fourteen days ; death was unexpected.

An elderly man died suddenly after having had diarrhœa for a few days, accompanied by colicky pains. A high grade of gastro-intestinal inflammation was found; arsenical poisoning was suspected. Subsequent chemical examination failed, however, to detect any poison.

The above cases are all copied from notes taken at the time, some of them afford a striking illustration of the fatal termination which may ensue in cases of comparatively *slight disease* and which might be readily overlooked in a hasty examination even after death. On the other hand some of the cases exemplify the *latent* course with which grave forms of disease may proceed to a fatal close.

HYPNOTISM.

By Wm. H. Palmer, M. D., Providence, R. I.

Hypnotism is the term invented and applied within the past fifty years to exhibitions of symptoms at once physical and psychical, resulting from an influence which certain human beings can exercise over others.

Though the name Hypnotism is new the symptoms have been observed at all periods among different peoples and attributed in ancient as in modern times to a mysterious influence by which one individual subjects another to his will and thereby modifies and determines the movements, functions and even the volitions, convictions and acts of the subject under his power.

Different names have been given to this influence, as Fascination, Animal Magnetism, Mesmerism; and it has been inseparably connected with a tradition that human organisms have properties analogous to those of the magnet, affecting each other by attractions and repulsions of a magnetic character—properties, that is, which are irresistible influences and communicable without apparent contact.

Paracelsus maintained that in the properties of the magnet might be found the "universal principle" by which all natural phenomena could be explained; and Anthony Mesmer, whose name is attached to what had been called before his time Animal Magnetism, affirmed that this "universal principle," as inhering in certain individuals, might be employed by them for the restoration of the sick.

Ignorance and deception combined to discredit

Mesmer's claims, and in spite of some remarkable cures and successes in developing his theories, he has descended to posterity as merely a scientific charlatan.

He left in a few minds, however, the notion that he might have been on the track of a fruitful truth, and since his day the possibilities of animal magnetism have at no time ceased to occupy the attention of scientific men. Their investigations were for some time vitiated by the fact that they were led away from the study of simple phenomena and devoted themselves to attempts to investigate the complex manifestations which promised to elucidate the marvellous side of magnetism.

It was in 1841 that Dr. James Braid, an English surgeon, began to investigate in a scientific spirit the simple, elementary forms of magnetic influence. Braid established the possibility of producing artificially a nervous sleep which he called hypnotic, and the term Hypnotism has since been used to designate a definite nervous state, subject to general rules, indicated by physical symptoms and supplying conditions for the modification and direction of the subject's energies through the suggestions of the operator.

At the present time the observations and experiments accumulated by the schools of Nancy and Salpêtriere as well as by independent investigators warrant a few leading statements as to the character of hypnotism, and also as to the benefits and the dangers to be anticipated from the extension of its use.

The objects of investigation may be named as 1st Biological—looking toward disclosures through hypnotic phenomena of the relations of the physical and psychical in the human organism. 2d. Therapeutic: the use of hypnotism as a means of controlling and curing disease. 3d. Moral—involving considerations of the

opportunities afforded by hypnotism for converting a susceptible subject into a victim or tool, as well as the question of the responsibility of the hypnotized.

Hypnotism consists in the production of physical symptoms which give to some extent an anatomical demonstration of the reality of a special state of the nervous system. (Ch. Féré.)

To obtain constant objective signs in connection with nervous symptoms is the recognized object of the schools devoted on a large scale to the examination of Hypnotism Certain important points are not yet settled, as for instance whether all persons are susceptible to hypnotism or only neuropathic patients? Also as to whether the personality of the operator is a factor in the hypnotic process. Braid disclaimed that it was, but it is hardly disputed at present that some operators are more successful than others, at least with some subjects.

As to universal susceptibility to Hypnotism the practitioners at Nancy have hypnotized 92 per cent. of their patients, whether neuropathic or not, but all are agreed that the *most* sensitive subjects are hysterical women and those who have been repeatedly hypnotized. First attempts to hypnotize are rarely successful, but a subject having once succumbed to the influence does so with increasing ease at each renewed attempt, until a glance from the accustomed operator may be sufficient to induce cataleptic rigidity.

Catalepsy, lethargy, and somnambulism are the three phases of the hypnotic sleep. The cataleptic subject is an automaton. His consciousness and sensibility are arrested. But if his hand be raised to his mouth as in act to throw a kiss, a vague smile appears upon his face. When the same hand is withdrawn from this attitude and doubled as for a blow, the smile is replaced by a

frown. That is, the facial expression of the cataleptic responds appropriately to the mechanical attitude in which he is placed. And also the artificial contraction of the muscles which produce a frown will be followed by the automatic clinching of the fist.

In Somnambulism the power of the senses is highly intensified. The activity of sight is sometimes so great that the range of vision is doubled, the sense of smell may be so developed that the subject is able to discover by its aid from among other bits of cardboard the fragments of a visiting card which he had been given to smell before it was torn up. The acuteness of memory during somnambulism is remarkable. A girl in Salpêtriere recognized and named the physician of an asylum where she had spent some time when two years old, and of whom she had no recollection when awake.

The prevalent opinion as to the cause of the hypnotic sleep is that it results from nerve-exhaustion brought about by the excitement of a special sense. Subjects are hypnotized through the strong and sudden, or slight and prolonged excitement of either sense; *as* the sense of sight by fixing attention upon a bright object; the sense of hearing by a loud and startling noise or else by prolonged and monotonous sounds; the sense of smell which may be exhausted by some powerful odor. Experiments have also been made through the sense of taste. The sense of touch is a powerful agent for inducing hypnosis either by prolonged passes, or by pressure on an hypnogenic zone. The first stages of hypnotic sleep can be developed into somnambulism by a slight blow upon the head, and the subject may be awakened by breathing lightly in his face.

But hypnosis by sense-exhaustion is only primary or elementary work in the domain of hypnotism. The

psychical process, that known as "Suggestion" and the reality of which is no longer disputed, leads to hallucinations and acts of obedience in the hypnotized which present the practically serious and by no means clearly explained phases of hypnotism.

"Suggestion" according to Ch. Féré of Salpêtriere consists in introducing, cultivating and confirming an idea in the mind of the subject of experiment. This is equivalent to saying that subjects of hypnotism may be convinced by means of "suggestion" of that which is contrary to their reason and experience, as when the operator's gesture with his hand suggests the flight of a bird and the subject in consequence *perceives* a bird, attempts to catch it, even handles and fondles it; or when told with authority that his arm is paralyzed finds himself unable to move it. To say that an idea when transmitted by "suggestion" resolves itself into an image and the image into the revival of a sensation is to give but a partial explanation of the genesis of hypnotic hallucination; and to the question how far it is possible for one person to exert over another the power of making him act, think, feel as it pleases the experimenter to dictate or suggest, the only answer that can at present be given is that conveyed by the facts of authenticated experiments.

Such experiments demonstrate that "suggestion" to hypnotics acts (1) upon the vegetative functions—circulation, secretion, digestion—purging by suggestion is well known. Focachon records that he applied some postage stamps to the shoulder of a hypnotized subject and suggested a blister. The subject was watched and at the end of 20 hours the bandage and compress which had remained untouched were removed. The epidermis was thickened and dead and of a yellowish white color,

and this region of the skin was puffy and surrounded by a bright red zone.

Suggestion acts (2) upon the perceptions. It may be suggested to a subject that on awaking she will not see a person who is in the room. Instances are given where the subject to whom this suggestion has been given makes attempts to pass through a door-way in which the person indicated stands. The subject is amazed to encounter an object which she cannot see. Similarly the hypnotized see by suggestion persons who are not present.

Suggestion acts (3) upon the reasoning powers, as when a subject devises means to execute an act to which he has been prompted by suggestion or to explain or excuse one done under hypnotic influence.

It plainly follows that the hypnotized can by all kinds of suggestions be made to harm themselves and others, and that they may be driven to the commission of any crime. Liègeois caused Miss E. to fire a pistol, which she thought was loaded, at her own mother.

A young man of 25, in whom Liègeois could produce both positive and negative hallucinations, was given a white powder and told that it was arsenic. He was directed to go to his aunt's on awaking, dissolve the powder in water and induce his relative to drink of it. He performed the attempted poisoning promptly in accordance with the suggestion.

Bottey convinced a woman by suggestion that she had seen a certain gentleman poison an old lady with opium, and when she awoke she hastened to make the accusation at the proper place.

The reality of hypnotic influence being established, what should be the attitude of the medical profession toward the accused who claims to have committed the crime with which he is charged under the influence of hypnotism?

The duty assigned in such cases to the medical expert is to ascertain whether the accused is a subject for hypnotism. He must decide by the physical signs as to sincerity of the experiment which will prove or disprove the subject's susceptibility. Such signs as the precise localization of the contraction in the muscles supplied by the branches of the nerve which have been excited by suggestion, or the maintenance of a cataleptic attitude without trembling, are beyond the possibility of simulation. So also, when an ignorant person has an hallucination of a color by suggestion, and is able to name the complementary color. But we have no right to accept the experiment as beyond the possibility of deception, except where the symptoms could not have been simulated, either because of (1) want of knowledge or (2) want of power.

Simulation is, however, not the only danger to be avoided in the examination of a hypnotic subject. It is possible that the magistrate or physican may by persistence, and the use of an authoritative tone of voice give suggestions to a susceptible subject, which will result in hallucinations of memory.

The difficulties in the way of obtaining sufficient warrant of sincerity are great, and the medical expert may remember that, as Féré asserts, his duty does not include the finding of victims for the law. He may prove by physical characteristics, that the subject is or is not susceptible to hypnotism, that the phenomena in question may be produced by hypnotic suggestion, but he can do no more than give evidence as to the possibility of such facts.

The question as to the penal and moral responsibility of the individual who acts under hypnotic suggestion can only be answered with reservations. It would be rash to assert that responsibility had ceased.

At Salpêtriere it has been found that subjects intending to commit an offence, and fearing their own lack of will power to accomplish it, have taken the precaution to receive "suggestion" of the misdemeanor from their associates in order to secure the accomplishment of their own intention.

Hypnotics act with greater promptness and energy under the influence of "suggestion" than from normal impulse, and the hypnotic should without question be held responsible for having voluntarily alienated his free will whether aware that he was yielding himself for immoral uses or not.

And let the extenuating circumstances be what they may, it cannot be doubted that society is justified in defending itself against such dangerous members as subjects of hypnotism. Up to this time hypnotism as an argument for irresponsibility has been but seldom urged in courts of justice. It is likely that in the future it may be more frequently employed. The hypnotic criminal should be treated with the same caution as the criminal adjudged insane.

It is probably impracticable even if it were deemed desirable to prohibit the practice of hypnotism. Physicians are justified in making use of it under the same reservations and sense of obligation as of other dangerous therapeutic agents, such as chloral, arsenic, etc.

Public and non-professional hypnotizing should be condemned as much as public dissection of dead bodies or vivisection in public. The effects of hypnotism on the physical and psychical energies of the human organism cannot as yet be measured any more than they can be gain-sayed. Their power for evil is equal to their scientific value. Professional knowledge as well as a keen sense of moral responsibility should be required of those who undertake the investigation and practice of hypnotism.

*ELEVENTH INAUGURAL ADDRESS**

OF

CLARK BELL, ESQ.

PRESIDENT OF THE MEDICO-LEGAL SOCIETY.

FELLOWS OF THE MEDICO-LEGAL SOCIETY:

A review of the labors of the year just closed in accord with our usual custom cannot fail to be of interest.

MEMBERSHIP.

At the commencement of 1890 we had on our roll of members 527 Active, 204 Corresponding and 12 Honorary, or a total of 743 names.

During the year we have elected 62 Active, 121 Corresponding and one Honorary member. We have lost by death, Active, 6; Corresponding, 2; a total of 8 names. We have dropped from the roll for non-payment of dues 56 names and have accepted 3 resignations. Leaving our membership on January 1, 1891, as follows: Active, 527; Corresponding, 323; Honorary, 13. A total of 863 names over and above all deaths and resignations, and exclusive of 56 names dropped from our published roll, who although still members of the body are suspended from its privileges until their arrears are paid, and which including these would make 919 names.

The full list of the Active and Corresponding members appears in the December number of THE MEDICO-LEGAL JOURNAL, except those temporarily suspended for non-payment of dues.

*Delivered January 14, 1891.

NECROLOGY.

The following members have died during the year:

Hon. Philip J. Joachimsen, late Judge of the City Court of New York; Thomas C. Finnell, M. D., of New York, an ex-President of the Medico-Legal Society; Daniel L. Gibbens, Esq., of the New York Bar; E. J. Kilbourne, M. D., Superintendent Illinois State Hospital for Insane at Elgin, Ill., an able and distinguished man; Prof. Dr. Max Leidesdorf, of Vienna, an eminent Austrian Scientist; Dr. John S. Butler, one of the elder American Alienists of Distinction, of Hartford, Conn.; E. H. Grandin, Esq., of the Bar of New York City; Benjamin F. Peixotto, Esq., of the Bar of New York City; Edwin Chadwick, M. B., the celebrated Sanitary Authority of London, one of our corresponding members.

THE WORK OF THE YEAR.

The following papers have been read before the Society during the year:

"The Inaugural Address of the President, Clark Bell, Esq." pronounced January, 1890; "Delirium Tremens as a Defense to Criminality," by T. Crisp Poole, Esq., Barrister at Law of Brisbane, Queensland; "The Importance of Distinguishing Between Somatic and Molecular Death," by Prof. L. Harrison Mettler, of Philadelphia; Letters on "Imbibition of Poisons," by Prof. R. C. Kedzie, of Michigan, and Prof. F. C. Robinson, of Maine; "Report of Committee on Sexual Causes of Crime," by E. W. Chamberlain, Esq., Chairman; "Education *vs.* Criminality, etc.," by Henry S. Drayton, M. D., of New York; "The Civilization of India," by our delegate to the Orient, Prof. Edward Payson Thwing, M. D.; "Osmosis of Strychnia through Organic Tissues," by George B. Miller, M. D., of Philadelphia;

"Electricity in its Medico-Legal Relations," by Clark Bell, Esq., of New York; "The Treatment of the Acutely Insane in General Hospitals," by W. P. Spratling, M. D., Assistant Physician at New Jersey State Asylum, Morris Plains, N. J.; "Heredity, Criminality, etc., *vs.* Education, etc.," by Mrs. Sophie McClelland, of New York.

Debate upon the Assembly bill proposing "The Abolition of the Death Penalty" in New York.

Action on letter of the Secretary of Belgian Society of Mental Medicine, "Appointing a Committee on Classification of Mental Diseases."

Action approving the resolutions adopted at the International Congress of Medical Jurisprudence of June, 1889, on the recommendation to establish a chair of medical jurisprudence in all law and medical schools and in all American colleges where law and medicine were taught.

Action on letter from Prof. James, of Harvard, regarding psychical research. "Epilepsy as a Defense to Crime," Part I. By Prof. J. J. Elwell, of Ohio. Same subject in letters and short papers by:

John P. Stearns, M. D., Supt. etc., of Hartford, Conn.; Dr. Orpheus Everts, Supt. College Hill Sanitarium, Ohio; Dr. J. Strong, Supt. Insane Asylum, Cleveland, Ohio; Walter Channing, M. D., Supt. Asylum, Brookline, Mass.; "The Proper Disposition of Insane Criminals," by Prof. Archibald Church, of Chicago, Ill.; "The Legal Test of Lunacy," by A. Wood Renton, Esq., of London. "The Same Subject," by Judge A. L. Palmer, of the Supreme Court of New Brunswick; "Report of the Delegates to the International Congress of Berlin," by Robert Newman, M. D.; "Report of the Delegates to the International Union of Criminal Law," held at Berne, Swit-

zerland, by Dr. Emily Kempin; "The True Test of Legal Responsibility of the Insane," by Judge H. M. Somerville, late of the Supreme Court of Alabama; "Moral Insanity," By W. P. Spratling, M. D., Assistant Physician New Jersey State Asylum, Morris Plains; "Hypnotism," by Wm. M. Palmer, M. D., of Providence, R. I.; "Epilepsy as a Defense in Criminal Cases." Part 2d. By Prof. John J. Elwell, of Ohio; "Sudden and Unexpected Death," by George D. Wilcox, M. D., ex-President Rhode Island Medico-Legal Society of Providence, R. I.

The report of standing committees submitted herewith concluded the labors of the year 1890, though not made until the January meeting of 1891, viz:

(*a*) The Report of the Committee on Reorganization of the Morgue in the City of New York; (*b*) The Report of the Committee on Hypnotism; (*c*) The Report of the Committee on National and State Chemists, to act as Toxicological Experts in criminal trials at call of the people or the accused.

A brief notice of the other labors of the body may be made:

1. The first volume of Prize Essays contributed on the Elliott F. Shepard prize has been completed and is ready for delivery to subscribers.

2. The fourth and fifth series of Medico-Legal papers have been more than half printed and are progressing, continuing the publication of the early papers of the Society from volume third, already issued, and the papers of the International Medico-Legal Congress of June, 1889, in part.

3. The Bulletin of the International Medico-Legal Congress is now nearly completed, a work of over 400 pp., and will be shortly issued to the members of that Congress, and the subscribers who are members of this

society. This has been an expensive work, and its burden has fallen heavily upon a few members of the society.

When completed it will form a notable contribution to the Medico-Legal Literature of the World. Members of the Society who have not already done so should remit $3.00 to pay the expense of the volume and enroll in the International Congress of Medical Jurisprudence for the Session of 1892.

4. The work of nationalizing the Society has gone forward with wonderful success.

The Vice-Presidents of the Society elected at the December annual meeting from the various States and Territories of the Union and from foreign countries will best illustrate the scope and character of the labor in this regard.

6. The extension of the membership has been in every way remarkable as well in the active as in the corresponding list. It has been most conspicuous, perhaps, on the legal and judicial side.

I submit a partial list of eminent names, who are now co-operating in our labors, admitted during the year 1890—active and corresponding.

ACTIVE.

E. A. Snow, Esq., Albert T. Graeffe, Esq., T. M. Thorndyke, M. D., H. C. Underhill, Esq., Franklin Pierce, Esq., Prof. T. P. Eskridge, M. D., Hon. E. T. Tallaferrio, Jas. T. Green, M. D., Judge Elisha Carpenter, Judge James H. Peters, Robert Funkhouser, M. D., Wilson McDonald, Esq., E. Morgan, Jr., M. D., Richard A. Springs, Esq., Daniel L. Gibbens, Esq., Schuyler S Wheeler, Esq., Wm. Maver, Jr., Esq., Abraham Nelson, Esq., M. J. White, M. D., H. O. Jewett, M. D., Willard C. Humphreys, Esq.,

George F. Keene, M. D., Appleton Morgan, Esq., F. T. Payne, M. D., Hon. W. L. Burnap, Editor J. N. Love, M. D., Frank P. Norbury, M. D., H. B. Hill, M. D., E. H. Hotchkiss, Esq., Amos C. Lewis, M. D., Edward Pierce, M. D., D. Young, M. D., Robert Newman, M. D., Judge A. Alinge, James H. McBride, M. D., R. B. Dupree, M. D., Hon. George W. Taylor, J. T. Wilson, M.D., R. M. Suearingen, M. D., Hon. Seth Shepard, Louis Leon, M. D., Judge Albert H. Horton, Franklin R. Haines, Esq., R. P. Talley, M. D., Hume Williams, Esq., F. M. Hood, M. D., Chancellor Henry A. Gibson, Walter S. Fleming, M. D., L. C. Mial, M. D., D. A. Gorton, M. D., W. R. Smith, Esq,, Professor, etc., Nicholas Senn, M.D., M. H. Fisk, M. D., Prof. James W. Putnam, Judge Thos. W. Coleman, Judge Thos. McClellan, E. Webster Davis, M. D., James M. Brady, Esq., M. Etna Worden, M. D. J. J. Scott, M. D., A. C. Smith, M. D., E. L. Macomb Bristol, M. D., N. W. Lynde, M. D., Dr. Simon Fitch Nova Scotia.

CORRESPONDING.

M. Hemar, ex-President, Med. Leg. Society, Dr. G. Luys, Paul Berillon, Dr. Paul Garnier, Prof. Ozier, M. Daned, Advocate, M. Bornaston, Dr. Giraud, Dr. Le Blond, Judge Adolphe Guillote, Dr. Paul Richer, France; Dr. Vicente de la Gardia, Dr. Jose I. Toralbas, Dr. Nicholas Gutierrez, Dr. Jose M. Carbonell, Dr. Venancio Zorilla, Ldo, Antonio Govirs, Dr. Leopold Berriels, Y. Fernandez, Dr. Francisco de los S. Guzman, Ldo Pedro Gonzales Llorenta, Cuba, Prof. Stienon, Dr. Thiey, Prof. Crim. Law, Prof. Camille Moreau, William C. Blanc, M. D., Belgium; Prof. Dr. August Forel, Prof. Dr. K. von Lilienthal, Prof. Dr. Carl Stoos, Judge Gustave Correvon, Dr. Prof. F. Meilli, Dr. Prof. Alfred Gautier, Judge Emil Zurcher, Prof. X. Gretener, Dr. Picott, Judge, Prof.

George Favey, Switzerland; J. G. Patijin, Advocate, J. G. C. P. Vrythoff, Prof. G. A. Van Hamel, A. O. H. Tellegen, M. D., Dr. J. van Deventer, Dr. G. Jelgersma, I. D. Fransen van de Putte, Minister of the Colonies, P. E. Hubrect, Secy. General, Dr. A. H. van Andel, D. A Hertz, Prof. Dr. C. N. Kuhn, Dr. S. Doedes Breuning, Dr. S. J. Halbertsma, Dr. G. J. C. J. Schouten, Holland; Dr. Antonio, Henrigues de Silva, Hon. J. J. Tavario, Portugal; Hon. Prof. M. A. Wulfert, Russia; Prof. Dr. C. Goss, Denmark; Hon. Pierre Ivan Dautschoff, Hon. George Zgoueroff, Alexander Djakovitsch, Bulgaria; Director A. Grotenfelt, Findland; Erster Staatsanwalt Schwarz, Germany; Dr. Jur. Jehan Berg, Dr. Jur. Harald Smedal, Norway; Dr. A. O. Winroth, Dr. A. E. W. Upperstorm, Sweden; Geo. A. Nenadviotch, Editor, Hon. Panta J. Savitch, Servia; Prof. Dr. Jeronimio Vida, Spain; Dr. Hugo Beck, Emerich V. Havas, Budapest; Barone Garofalo, Dr. Fernando Puglia, Dr. Guglielmo Canterano, Dr. G. Andriani, Dr. R. Collella, Italy; Tonza Kawa Moto, M. D., Kanchiro Takaki, F. R. C. S., Dr. Kensai Ikeda, Tsunatsune Hashimoto M. D., Japan; Hon. L. E. Bleckley, Chief Justice, Ga.; Hon. R. D. Ray, Chief Justice, Mo.; Hon. John A. Peters, Chief Justice, Maine; Hon. George P. Raney, Chief Justice, Fla.; Hon. Willis Van Deventer, Chief Justice, Wyoming; Hon. Guy C. A Corliss, Chief Justice, N. Dakota; Hon. C. J. Stone, Chief Justice, Ala.; Hon. C. A. Thayer, ex-Chief Justice, Oregon; Hon. D. Follett, Presiding Justice, Court of Appeals, New York; Hon. John W. Stayton, Chief Justice, Texas, Hon. Thomas H. Woods, Chief Justice, Miss.; Hon. Henry A. Blake, Montana; Charles Mercier, M. B , London; Dr. Richard J. Dunglison, Phila. Pa.; Hon. Charles B. Andrews, Chief Justice, Conn.

Frederic Bateman, M.D., Norwich, England; Prof. Cæsar Lombroso, Italy; Havelock Ellis, M.D., London, England; Prof. Matthias Duval, Director of the Laboratory of Anthropology Paris, France; Prof. Bernheim, Nancy, France; Prof. Liegeois, Nancy, France; Prof. Beaunis, Nancy, France; Judge Walter Clark, Supreme Court, Raleigh, N. Carolina; Chief-Justice A. C. Snyder, West Virginia; Chief-Justice Joseph L. Lewis, Kentucky; Chief-Justice Joseph Given, Iowa; Chief-Justice W. H. Batty, California; Chief-Justice J. C. Helm, Colorado; Judge Byron K. Elliot, Supreme Court of Indiana; Judge Wm. E. Beck, ex-Chief-Justice of Colorado; Judge E. W. Seymour, Supreme Court of Connecticut; Judge A. E. Maxwell, ex-Chief Justice of Florida; Judge H. L. Mitchel, Supreme Court of Florida; Judge M A. Blaudford, Supreme Court of Georgia; Judge Thomas J. Simmons, Supreme Court of Georgia; H. W. McLaughlin, Denver, Colorado, Prof. Kemp P. Battle, University of North Carolina; Chas. Edgworth Jones, Esq., Augusta, Georgia.

PORTRAITS.

5. The publication of groups of portraits of Legal, Judicial and Scientific members of the body and the International Congress has excited great interest in the Society and among its cotemporaries home and abroad.

It will be continued during the year to come and will also embrace the Judiciary of North America under the auspices of THE MEDICO-LEGAL JOURNAL.

FINANCES.

The total receipts of the Treasurer for the year 1890, as reported by that officer, were $1,121.66, and the total disbursements as near as I can ascertain them, $1,040.76. Leaving a large amount unpaid dues in arrears due from members.

THE PROGRESS OF THE SCIENCE.

The Science of Medical Jurisprudence is steadily and rapidly advancing. The Medical profession have been more awake to its importance and value in the past than the Legal.

This is now changing. Men of eminence, both upon the Bench and at the Bar, are recognizing its true relation to the Bar.

The study of the science progresses, and has been stimulated greatly by the labors and influence of this body and in other auxiliary associations :

1. The Medical Jurisprudence Society of Philadelphia is in a most flourishing condition. Its officers are :

President, Henry Leffman, M. D.; 1st Vice-President, J. Levering Jones; 2d Vice-President, J. Hendric Lloyd, M. D.; Secretary, Francis X. Dercum; Treasurer, Paschal H. Coggins; Recorder, Milton Bradfield, M. D. It has a large membership, and original papers are read monthly at its sessions.

2. The Medico-Legal Society of Chicago has made great progress and is doing good work. Its officers are :

President, Dr. E. J. Doering; Vice-Presidents, Dr. B. Bettman, Judge O. H. Horton; Secretary, Dr. Ed. B. Weston; Treasurer, Dr. L. L. MacArthur.

3. The Medico-Legal Society of Denver, Colorado, has been formally organized. Its officers are as follows :

President, Judge Geo. Allen; Vice-President, Dr. J. W. Graham; Secretary, Dr. H. W. McLaughlin; Treasurer, Mr. William Clark; Board of Directors, Dr. J. T. Eskridge, Chairman, Dr. H. W. McLaughlin, Judge E. O. Le Fevre.

4. The Medical Examiners of the State of Massachusetts, under the new law abolishing the office of coroner, organized a society called the Medico-Legal Society of Massachusetts.

While lawyers or chemists, as such, are not eligible to membership, this society has by its labors contributed very important and most valuable contributions to forensic medicine.

The Medico-Legal Society of Rhode Island is organized in the same manner and upon the same lines as that of Massachusetts, and it is doing a like work. Its officers are :

President, J. Howard Morgan, M. D., of Westerly ; Vice-President, C. A. Barnard, M. D., of Centredale ; Secretary and Treasurer, H. Goodwin MacKaye, M. D., of Newport ; Censors (one for each county), G. D. Wilcox, M. D., Providence County ; J. Winsor, M. D., Kent County ; G. L. Church, M. D., Bristol County ; P. K. Taylor, M. D., Washington County ; H. Goodwin MacKaye, M. D., Newport County.

The annual meeting and election of officers is held the third Thursday in July.

All meetings are held in Providence.

The only paper read before the Society in 1890 was by P. K. Taylor, M. D., and was entitled "Some Desirable Changes in the Medical Examiner Law." This was read at the meeting held April 17th.

6. A movement is on foot to organize a similar society for Wisconsin, in the city of Milwaukee.

It will be thus seen that in America much greater interest is felt in the science than in other countries at the present time.

7 The International Congress of Medical Jurisprudence organized in this city in June, 1889, for a second session in 1892, continues to attract attention, especially in foreign countries.

The following correspondence between your chairman and Mr. Secretary Blaine illustrates the sympathy

felt by the Government of the United States for the success of the movement, and has been greatly instrumental in interesting eminent men of science in foreign countries to operate in the work.

Office of the President of the Medico-Legal Society of New York, No. 57 Broadway, N. Y., March 31st, 1890.

Hon. James G. Blaine, Secretary of State, Washington, D. C.

DEAR SIR.—I have the honor to enclose a circular we are sending in the English, French, German and Spanish languages, to the various countries of the world, asking co-operation with the International Medico-Legal Congress, which will be held in 1892 in this country.

Its first session was held in June, 1889, of which I send the preliminary transactions and roll of delegates.

The French circular enclosed shows the officers at this moment, and as Vice-Presidents for the various countries are announced, they will be added to those already appointed. Inspection of the names of the eminent men, who have already lent their names to this project, emboldens me to request the countenance of the American Government, to this movement in aid of this science.

Among foreign peoples, the knowledge of the approval of the Home Government, is of vast consequence to the success of scientific endeavor.

The aid, lent by the French Government, to the Scientific Congresses in Paris last year, gave an enormous impetus and importance, to that wonderful success, which added new lustre to the glory of France.

We do not desire any pecuniary assistance from the Government of the United States.

The letters you so kindly sent me last summer were of enormous value to me, in interesting eminent men of science, in the countries of Europe in the movement.

Such a letter of sympathy, with the objects and purposes of our present endeavor, as you can give, will I think be of great value, and will in many countries, especially the Spanish speaking countries on this continent, be of commanding importance.

I am, sir, with high personal regard,

Very faithfully yours,

CLARK BELL.

Department of State, Washington, April 17, 1890.

Clark Bell, Esq., President of the Medico-Legal Society, No. 57 Broadway, New York City.

DEAR SIR.—I have received your letter of the 31st. ultimo, enclosing copies of circulars which you are sending to the various countries of the world, inviting co-operation for the Congress, which will be convened in 1892 in the United States, for the discussion of medical jurisprudence.

The importance of such a gathering as you propose cannot, it would seem, be overestimated. The intelligent discussion of scientific questions, especially those which so closely affect the human family, by a body of gentlemen learned in medico-legal science, must prove of especial value, and should be worthy of every effort, which has for its mission the amelioration of the condition of mankind.

My individual sympathy in the objects and purposes of your conference is very great, and I trust that the results of such a meeting as you propose may correspond, to the aims you have in view, as I have no doubt they will.

I am, dear sir, very truly yours,

JAMES G. BLAINE.

The following gentlemen have already given their promise to contribute papers to that congress :

Prof. Dr. Paul Kowalewsky, of Kharkoff, Russia ; Prof. Dr. Mierzezewski, St. Petersburg, Russia ; Dr. Chas. H. Hughes, St. Louis, Mo.; Dr. Daniel Clark, Toronto, Canada; Dr. Thomas G. Morton, Philadelphia, Pa.; Dr. Jules Morel, Ghent, Belgium ; Clark Bell, Esq., New York City ; A Wood Renton, Esq., London, England ; Judge H. M. Somerville, of Alabama ; Prof. Marshall D. Ewell, of Chicago ; Dr. S. V. Clevenger, of Chicago ; Dr. Edward Payson Thwing of, N. Y. ; Dr. Henry Leffman, of Philadelphia ; Moritz Ellinger, Esq., of N. Y.

I submit herewith a circular letter, which has been sent and will be sent to men of science in foreign countries, which has already been printed by this Society in the English, French, German and Spanish languages for use in foreign countries, together with a list in part of the present enrolled members of that Congress and its officers, to illustrate the importance and significance of its labor, and the relation it bears to the promotion and growth of Medical Jurisprudence, in our era of the world's civilization, and I call on all students of the science in all countries to co-operate in this important movement.

I will thank the Vice-Presidents to forward to me the title of the papers, they will submit or that have been or will be contributed from each country.

FOREIGN.

The interest abroad during the past year has been evinced more in the acquisition of members in the Active and Corresponding list. In no country, however, has there been so much progress as our own.

I have not been made aware of the organization of any new Medico-Legal Society in any foreign country,

though the subject is under consideration in Italy and other countries.

The Medico-Legal Society of France continues its work, the labor reaching the public in the columns of "Annales de Hygiene et de Medicine Legale."

A perusal of the eminent names added to our Corresponding list will show the interest felt in foreign lands and in the several States of the American Union in the work of the body.

ELECTRICITY AND THE DEATH PENALTY IN NEW YORK.

Only one capital execution has occurred in 1890 under the new statute.

The details, as they were given to the public press, gave rise to severe criticism and animadversion against the law.

The provisions of the statute restricting publications had antagonized many journals, and the witnesses of Kemlers execution, with few exceptions, mistook the muscular action frequently accompanying instantaneous death or seemed not to understand them, and an effort was made by the enemies of the law on the one-hand and the friends of the abolition of capital punishment on the other, to convey the impression that death was not instantaneous, and was accompanied by pain and suffering.

Nothing, however, was farther from the truth. The death was unaccompanied by any conscious pain, was instantaneous, and characterized by the usual phenomena resulting from decapitation, piercing the brain with a bullet, and kindred methods, and nothing more.

Those best qualified to judge are positive that there was no consciousness after the instant that the current was applied.

The constitutionality of the law has been twice passed upon by the Supreme Court of the United States and by

the court of last resort in New York and its provisions sustained by these tribunals.

Calmer and cooler judgment, is replacing the excitement aroused by the press, and there is no apparent likelihood of any change in the law, until the moment arrives when the death penalty for crime is abolished.

CRIMINALITY AND CRIMINAL ANTHROPOLOGY.

Recent investigations of careful writers on both sides the Atlantic have brought to the attention of jurists and publicists, the necessity of considering from the foundations, not so much our penal statutes, as the criminal himself, and the best methods to be pursued by society in dealing with him.

The writings of Lombroso, of Ferri, and others of the Italian school, the work of the International Congress, both at Rome and later in Paris in 1889, the array of eminent men who have taken up this discussion in France, Germany, England and in our own country, has excited enormous interest throughout the scientific world. The International Union of Criminal Law, founded recently and holding its first public congress in Brussels in 1889, and its second congress at Berne, Switzerland, in August, 1890, present sharply defined, the magnitude and importance of the discussion now going on.

The Medico-Legal Society named delegates to the congress at Berne, and one of these attended, and a report of that delegate has been made to the body.

It has occurred to me, that the study of this subject could be better advanced by the organization of a separate section upon Criminality and Criminal Anthropology, whose labors could be conducted by a chairman, secretary and treasurer, and if needs be a special com-

mittee who could act *en rapport* with the International Union of Penal Law directly and wholly upon the subjects involved.

This section could be composed of such members of this society as desire to devote any attention to the study, and to all other persons, whether members of the society or not, who enrolled and paid an enrolling fee of $1.25 to cover expenses of printing, postage, etc.

Three members of the Union now reside in the United States, some of whom would take charge of the organization, and their labors could be annually reported to this body, and to the International Union.

If this recommendation meets with favor, the chair will name a provisional committee to take charge of the initiatory labor.

THE MORGUE IN NEW YORK.

It has been a source of surprise to scientists that we have not in the great metropolis of the nation taken steps to place the morgue on a proper scientific basis.

This subject has been previously brought to the attention of this body by me. A committee has considered the subject and makes a report at this meeting recommending that the morgue be reorganized and placed on a scientific basis, after the manner of the morgue in Paris and under the charge of the best scientific skill commensurate with the civilization of our day and the needs of the city.

No greater name in medical and toxicological science exists in France than Brouardel, who as the head of the morgue made a seat and centre for toxicological and other germane studies that reflects the greatest honor upon France.

We have men of the highest skill here who should oc-

cupy a similar relation to the morgue in New York, and if the press the Academy of Medicine and other powerful organizations second our movement, this reform should have speedy realization.

NATIONAL AND STATE CHEMISTS.

The committee having in charge this subject make a report favoring the appointment of a national chemist at the seat of Government, with a salary that would secure the highest and best service, and a fully equipped laboratory second to none in the world, and recommend that the services of this sworn public official should be at the call of both the people, and of all persons accused of crime, and on trial in the national tribunals.

They also recommend similar action in the several states for the state tribunals.

To state these reforms should alone enlist thoughtful minds, and all legislators to consider them with favor.

The subject was laid before the American Chemical Society in a short paper by myself, at its recent session in Philadelphia on 31st December, 1890, and the aid of that organization invoked in the movement.

HYPNOTISM.

No question of the hour excites more interest among scientific observers than this.

The committee of this society have been too scattered to secure a general conference or session.

Observations have been conducted by the several members. A preliminary report is now made to the society from that committee, defining the present status of the science or phenomena, and laying out a plan of conducting examinations on the undeveloped and doubtful problems.

The recent remarkable case of Ayraud and Bompard which have occupied the French tribunals bring into sharp relief the position taken by the School of Nancy and those scientists who hold that crime can be committed unconsciously by suggestion, and the view of Brouardel, Motet, and others who deny these conclusions.

This and other questions of this wonderful phenomena, are well worth the attention of medical men and scientists, and will constitute an important field of the labor of the society in the present year.

If sufficient interest is taken I should recommend the formation of a separate section for the study of this phenomena, open to non-members of the society at a nominal enrolling fee, under the charge of a chairman, secretary and treasurer of the section.

PSYCHICAL RESEARCH.

Students of psychology will understand the public interest felt at the present moment in the interesting studies new going forward on both sides the Atlantic.

The communication of Prof. James, of Harvard, laid before the body shows the field of inquiry of that eminent psychologist. It is quite germane to our studies.

It could be observed and studied by either a standing committee of the body, or by a section acting in co-operation with other inquirers, as thought best. I commend it to the attention of this society, and if sufficient interest is taken will cheerfully co-operate in the labor, and to that end invite suggestions and correspondence from members or others who take an interest in this study.

PRIZE ESSAYS.

The award of the prize of 1889 and 1890, offered by myself and the society has not yet been made, owing to the difficulty of obtaining unaminous action and divergent views, in committee the difficulty of meeting and other circumstances have retarded action.

A prize has been offered by the society of $100 for the best essay, and $50 for the second best, which will close on April 1, 1891, and to which it is hoped many will contribute.

THR LIBRARY.

It is a source of regret that our library is still houseless and homeless. It is to be hoped that provision will be made in the near future ior its care.

Members should however feel under obligations to send one volume each year, to swell the number of its volumes, and a special committee, of which the librarian should be chairman, should be named, to arrange some plan to bring its treasures where the members could see and use them.

FINALLY.

The path that lies before this body for the coming year is to complete and round up the work we have on hand, that which we have already undertaken. This will task all our energies and require all our resources, with thanks for a continuance of that support which has so greatly encouraged the chair and for a unanimity in our work, that is most significant and charming I invite you to continue in the labor that has so greatly crowned our efforts, during the year just closed.

REPORT OF THE STANDING COMMITTEE ON NATIONAL AND STATE CHEMISTS.

To the Medico-Legal Society—Gentlemen:

The standing committee to whom was referred the recommendations of the President, Mr. Clark Bell, in his inaugural address to the society, pronounced January, 1887, and subsequently renewed by him at various times, regarding the appointment of a national chemist by the Government of the United States, to be placed at the service of the Government and accused persons in all criminal trials, and for similar action in the States, beg leave to submit the following

REPORT.

That we have carefully considered the matter in all its aspects, and the present methods of procuring suitable chemical evidence in criminal trials, both in the State and national courts, and we recommend to the Society the adoption of the following resolutions, which we recommend that the Society submit to the Congress of the United States and the State Legislatures.

Resolved, That the creation of an official, to be known as the National Chemist, in the service of the Government, with a salary sufficient to command the highest available talent, and the establishment of a thoroughly equipped laboratory, which should be at the disposal of the Government or persons accused of crime, or of the State authorities, under suitable regulations, would be a measure that would reflect credit upon the nation, greatly assist the authorities in the administration of

justice, and elevate the character and standing of expert testimony in the courts.

2. *Resolved*, That the best interests, of the people of the various States of the Union, would be greatly subserved, by creating in each State an official to be known as the State Chemist, with sufficient salary to insure high skill in the discharge of official duty, and by establishing a competent and thoroughly equipped chemical laboratory.

That it be the duty of the State Chemist to act as well for the State and public authorities, as for all accused persons in all criminal trials, at the expense of the State.

All of which is respectfully submitted.

Dated New York, December, 1890.

VICTOR C. VAUGHAN, PH. D.,
Chairman.
H. A. MOTT, JR., PH. D., LL.D.,
Analytical Chemist.
GEO. B. MILLER, M. D.,
CLARK BELL,
President Medico-Legal Society, *ex-officio*.

NOTE.—This Report was unanimously approved and adopted at the meeting of the Medico-Legal Society, held January 14, 1891.

REPORT OF THE STANDING COMMITTEE ON THE MORGUE.

To the Medico-Legal Society :

The Committee to whom was referred the recommendations of the President, relative to the reorganization of the morgue in the city of New York, beg leave to submit the following

REPORT.

We have considered the subject as one entitled to be worthy the attention of the municipal authorities of the city, and are of the opinion that if the attention of Mayor Grant was called to the subject, and the pride of the civic authorities of the city aroused, important reforms would be speedily inaugurated.

We submit that the basis of the proper organization of the morgue should be substantially that adopted in the city of Paris, France.

The chief should be selected from one of the ablest physicians in the city, thoroughly informed on all questions of pathology and toxicology, and his staff should be composed of specialists in every branch of scientific research, so as to be able to conduct post mortems, to insure the detection of crime, in case it has been committed, even in the most obscure cases.

The importance of a morgue, thus equipped and conducted, as a factor in the detection of crime, cannot be overestimated.

At the morgue of Paris, under the leadership of Professor Brouardel, the greatest of living French toxicolo-

gists, the School of Study and Observation by his corps of assistants, was second to none in the world.

It is certain that the Academy of Medicine, and the entire medical profession of New York, would co-operate with the mayor and the civic authorities in any intelligent movement to place our morgue on a higher scientific basis. The salary of the chief should be the highest salary paid to any medical man in the city, and it should be sufficient to command the services of the ablest talent in the profession of chemistry and medicine, and especially such as had distinguished themselves in pathological studies and morbid anatomy.

We recommend that the subject be brought to the attention of the mayor and the municipal authorities by a committee to be named by the Society, and that the Medico-Legal Society recommend the reorganization of the morgue, substantially upon the basis of that of Paris, and pledge its efforts to elevate the standard of the scientific service of the morgue, and that the Committee be instructed to urge that at its head be placed the ablest scientific talent, within the reach of the city authorities.

Dated December 31st, 1890.

CLARK BELL, Chairman.
SIMON M. EHRLICH,
M. J. B. MESSEMER, M. D.,
HENRY A. MOTT, JR., PH. D.,
PHIL. L. DONLIN, M. D.

NOTE.—Approved and adopted unanimously by the Medico-Legal Society, January 14, 1891.

PRELIMIMARY REPORT OF THE STANDING COMMITTEE ON HYPNOTISM.

To the Medico-Legal Society.

The Committee on Hypnotism beg leave to report, in part, a few facts indicative of progress in scientific inquiry.

The literature of the subject is growing opulent—a thousand titles are now recorded. The number of reputable investigators increases. Taken out of the hands of those whose aims and methods cast discredit on it, hypnotism is studied by members of each of the learned professions, vitally related as it is to the interests of which they are the natural custodians. It is safe to say that these facts are established:

1. Hypnosis, or artificial trance-sleep, is a subjective phenomenon. Here modern science joins issue with old-time mesmerism, the theory of some mysterious efflux from the operator. Hypnosis may be self-induced through expectation alone, through fright, by religious ecstasy or any enrapturing emotion.

2. Hypnosis is not in itself a disease. Neurotic conditions predispose one to the trance-sleep, but the strongest minds have also been enthralled. Their recorded visions have been an open book for centuries.

3. Hypnosis is recognized in three stages—lethargy, somnambulism and catalepsy. The transition may be immediate. The second is instantly induced in trained sensitives.

4. Hypnotism has been serviceable in medical and sur-

gical practice, both as a therapeutic agent and in some cases as an efficient and safe anæsthetic.

5. The illusory impressions created by hypnosis may be made to dominate and tyranize the subsequent actions of the subject. The following legal aspects present themselves:

1. Has the sensitive sought the operator, or has the operator used undue influence to gain control of him? 2. Are proper witnesses present? 3. Are possible elements of error eliminated, such as self-deception, simulation and malingering? 4. Is hypnosis a justifiable inquisitorial agent? 5. Do we need a reconstruction of the laws of evidence in view of the perversion—visual and otherwise—created by the trance? 6. Is any revision of the Penal Code desirable in view of these facts? Finally, should there be legal surveillance over private experiments or public exhibitions?

The committee will welcome suggestions on these or or other points, and any instructions as to methods of investigation of the matter referred to them by the Society.

Respectfully submitted,

E. Morgan, Jr., M. D., Chairman.
E. P. Thwing, M. D.,
T. P. Eskridge, M. D.,
Robt. Funkhouser, M. D.,
Theo. H. Kellogg, M. D.,
M. Ellinger,
Wilson McDonald, Sc.,
Clark Bell, President *ex-officio.*

Note.—This Report was submitted to the Medico-Legal Society from the Standing Committee, January 14, 1891, and was made the Special Order for discussion at February Meeting of 1891.

EDITORIAL.

THE SUPREME COURT OF THE STATES AND PROVINCES OF NORTH AMERICA.

The preliminary work for the production of a volume which shall contain a historical sketch of the Supreme Court of the several States of North America is going rapidly forward. It is desired that the sketches be made either by or under the supervision of the Chief Justices, or by eminent members of the Bar upon their invitation or at their suggestion.

The work will contain portraits of the Chief Justices, and of many of the Associate Justices, with short sketches of their lives and judicial career.

In a number of the States, the historical sketch has been already written. In several arrangements are already completed for its preparation; in the others negotiations are in progress. In some of the States the Bench of the Supreme Court will be presented in a group, of a size and style suitable for framing and presentation by members of the Bar, at a reasonable price.

Subscriptions for the work have already been received from several of the State law libraries, from judges and from members of the Bar.

It is thought advisable to publish the work in two volumes, so that those first received and prepared can be published and issued to the profession before the whole is completed. The price of volume one will be five dollars.

Members of the Bar having engravings or portraits of former Chief Justices of the Supreme Court, of the various Associate Justices, of the older court houses or capitols of States or Provinces, are requested to forward

them to the Editor of the MEDICO-LEGAL JOURNAL, at No. 57 Broadway, New York City.

Some of the portraits and sketches will appear in this journal from time to time, and the March number will contain one which will be an example for the others.

INCREASE OF INSANITY.

Mr. Noel A. Humphreys read a paper on this theme before the Royal Statistical Society of England, in February, 1860, in which, while he recognizes an apparent increase in the total number of the insane, he demonstrates from actual statistics that there is no increase of occurring insanity.—*Journal of Mental Science, April*, 1890, *p.* 237.

THE NEW YORK ACADEMY OF MEDICINE.

The opening of this spacious and elegant struture on November 20th, last, marks a new era for the medical profession of the city. It stands for higher education, the aggregation of a great medical library, and for a concerted movement among the more cultivated medical men to lift the profession both intellectually and socially from the standard of the present hour. The addresses were able, scholarly and good.

The Academy has a home of which medical men may well be proud.

THE PETTIT CASE.

We can hardly, at this distance, pass a careful judgment upon this case; but the newspaper accounts of the trial and verdict indicate the effect of popular clamor and prejudice overriding legal evidence.

The value of toxicology in medical jurisprudence is enormous, but all must agree that the scientific evidence must be equal to demonstration, must be conclusive and unanswerable, if it is to be taken at all.

1. If the abdominal cavity was filled with the poison, under pretence of embalming, how could the experts say beyond doubt that the death was due to that cause?

2. Dying declarations as to actual *facts* have great value, but the *opinions* of the dying are of doubtful worth. While the deceased's statement as to an incident, a circumstance, an act, would be clearly right. She might have honestly believed she was poisoned, and have been mistaken.

3. The case was not unlike the Liverpool case of Maybrick, in some aspects. A general, popular impression and belief prevailed in the probable guilt of the accused, which certainly influenced the court and doubtless the jury. That was by our standards an illegal conviction, and would have been reversed on appeal, if in this country, as against fundamental principles of law.

We do not desire to say as much of the Pettit case, but we fear that similar considerations may have influenced the Indiana court and jury. Doubtless the case will be reviewed, and we shall watch with interest the denouement.

PROGRESS OF MEDICO-LEGAL SOCIETIES.

A medico-legal Society has been founded at Denver, Colorado, which is in a flourishing state.

A movement is on foot at Milwaukee, Wisconsin, to establish there a medico-legal society. We shall watch the effort with interest.

INTERNATIONAL CONGRESS OF MEDICAL JURISPRUDENCE OF 1892.

The following gentlemen have promised to contribute papers for the International Congress of Medical Jurisprudence of 1892, and we hope to be able to add a large number of other names:

Prof. Dr. Paul Kewalewsky, Kharkoff, Russia; Prof. Dr. Mierzejewski, St. Petersburgh, Russia; Dr. Charles H. Hughes, St. Louis, Mo.; Dr. Daniel Clark, Toronto, Canada; Dr. Thomas G. Morton, Philadelphia, Pa.; Dr. Jules Morel, Ghent, Belgium; Clark Bell, Esq., New York City; A. Wood Renton, Esq., London, England; Judge H. M. Somerville, Alabama; Moritz Ellinger, N.Y.

CRIMINAL ANTHROPOLOGY.

The inaugural address of the President will recommend at January meeting the organization of a section for the study of Criminal Anthropology, under the auspices of the Medico-Legal Society, to act as auxiliary and in conjunction with the International Union of Penal Law, which met last August in Berne, Switzerland, and which meets next year at Christiana, Norway.

This section to be under the management of a chairman, secretary and treasurer, and to be open to all students of the science, whether members of the society or not, at the nominal membership of $1.25 each, intended to cover expenses of printing and postage.

This study is awaking great interest abroad among jurists and all students of penal law.

All members of the society, and all others who desire to unite with such a section, will please forward their names and the enrolling fee to the president of the society, or to either of the secretaries, who will act as provisional committee until a permanent committee of officers is named.

HYPNOTISM.

The Government of Russia has interdicted public exhibitions of the science of hypnotism.

The report of the Standing Committee on Hypnotism of the Medico-Legal Society, to be made at the January meeting, is intended to open the discussion and observa-

tion of the phenomena to all the members of the Society. The lines of study and experiment will be formulated by the committee, and, if sufficient interest exists among the members, a section may be formed for the study and investigation of hypnotism, open to non-members of the body. Members desiring to unite with such a section will please send their names and addresses to the president of the society, or either of the secretaries.

PRIZE ESSAYS.

The prize of $100 for best essay, and $50 for second best essay, offered by the Medico-Legal Society, expires April 1, 1891.

It is hoped that there will be a large competition.

The award of the prizes for 1890 has not yet been made.

There is a divergence of opinion which has caused delay, as the committee is too widely scattered to meet.

The announcements will probably be made in time to announce in the March number of the JOURNAL.

PERSONAL.

Prof. Dr. Lefebvre is the president of the Belgian Society of Mental Medicine. At the December meeting of 1890, Prof. Masius, of the University of Liege, was elected vice-president of that body, and Dr. Jules Morel, superintendent of the Hospice Guistain, at Ghent, was re-elected secretary and treasurer.

Mr. Clark Bell has been elected an honorary member of the Medico-Legal Society of Denver, Colorado.

Prof. Jolly, of Strasbourg, succeeds Prof. Westphal in the chair of Mental Medicine at the University of Berlin.

Prof. Dr. Bianchi has been made a professor of mental and nervous diseases at Naples, Italy.

Dr. Peters, in charge of the insane colony at Gheil, has been decorated by his government with the order of Leopold.

Hon. David McAdam. After a long and honorable service as Chief Justice of the City Court, Judge David McAdam has been elected to the Superior Court of this city. It is a well-meant honor to a deserving man.

Judge McAdam was one of the founders of the Medico-Legal Society, and one of the original promoters of the Medico-Legal Journal, and his recent election as one of the Trustees of the Medico-Legal Society was a credit to the body.

We also learn with great satisfaction that he has recently been elected President of the Society of Medical Jurisprudence and State Medicine of this city.

This is a most fortunate selection for that Society, and will be a step calculated to bring that organization into a more prominent position for useful work.

We congratulate that body on its choice.

Judge S. M. Ehrlich. The vacancy in the Chief Justiceship of the City Court, caused by the promotion of Judge McAdam to the City Court, has been filled by the election of Judge S. M. Ehrlich to that position.

Judge Ehrlich is one of our members, who takes a deep interest in the success of the science and of the body.

Judge John H. McCarthy. We congratulate the City Court that Judge McCarthy has been placed upon that Bench. He will make a useful and honest Jukge.

NOTICE TO MEMBERS AND SUBSCRIBERS.

Members, Subscribers and others desiring to unite and form sections for the study of Hypnotism, Criminal Anthropology or Phychicial Research—pursuant to the recommendations of the President in his Inaugural

Address, will please send their names and addresses to the President or either of the Secretaries so that a list can be formed for each such section of members if so desired.

NOTICES TO SUBSCRIBERS AND MEMBERS.

We have delayed the issue of this number so that the reports of the standing Committees and the President's address could appear, although not made till the January meeting of 1891.

This crowds out matter we previously had intended to appear. The announcement of Books, Journals and Pamphlets received and notice of Magazines will appear in March number.

TRANSACTIONS.

MEDICO-LEGAL SOCIETY.

PRESIDENCY OF CLARK BELL, ESQ.

Society met at Hotel Buckingham, November 12, President Clark Bell in the chair. Franklin R. Haines was chosen Secretary *pro tem.*

The minutes of the October meeting were read and approved.

The following persons were, on recommendation of the executive committee, duly elected:

ACTIVE MEMBERS.

Proposed by JUDGE SOMERVILLE: Hon. Thomas McClellan of the Supreme Court of Alabama, Montgomery, Alabama; Hon. Thomas W. Coleman of the Supreme Court of Alabama, Montgomery, Alabama; and Dr. E. Webster Davis, No. 126 W. 40th Street, New York City.

Proposed by CLARK BELL: W. R. Smith, Esq., Professor of Medical Jurisprudence, 74 Gt. Russell Street, Bloomsby Square, London; and J. M. Brady, Esq., No. 4 Warren Street, New York.

Proposed by J. M. WHITE, M. D.: Nicholas Senn, M. D., of Milwaukee, and M. H. Fisk, M. D., of Wauwatosa, Wisconsin.

Proposed by M. LOUISE THOMAS: Prof. James W. Putnam of Buffalo.

Corresponding members proposed by CLARK BELL: Chief Justice W. C. Ruger, New York Court of Appeals;

Presiding Justice William L. Learned of Albany, N. Y., Chief Justice Marcus Morton of Boston, Chief Justice C. Doe of New Hampshire, Ex-Chief Justice Larremore of New York, Governor Leon Abbett of New Jersey, Judge Saulsbury of Delaware, Rastus Ransom, Surrogate of New York City; Chief Justice Henry O. Harlan of the City Court of Baltimore, Chief Justice Thomas Durfee of Rhode Island, Chief Justice Comegys of Delaware, Chief Justice Paxson of Pennsylvania, Chief Justice Minshall of Ohio, Chief Justice Beasly of New Jersey, and Chief Justice Royce of Vermont.

Judge H. M. SOMERVILLE of Alabama then read a paper entitled "The Legal Test of Lunacy,"—

Which was discussed by Mr. Albert Bach, Esq., Gilbert R. Hawes, Esq., Morris Ellinger, Esq., Dr. I. N. Quinby, of New Jersey, and the President.

The Chair then introduced Dr. Margaret A. Reaves, M. D., who read a paper upon "The Colony of the Insane at Gheel, Belgium."

Nominations being in order, the following nominations were made for officers for the ensuing year:

For President,
Clark Bell, Esq.

For Corres. Secretary,
Moritz Ellinger, Esq.

For Chemist,
C. A. Doremus, M.D.
Prof. V. C. Vaughan.
Prof. H. A. Mott, Jr.

For 1st Vice-President,
Hon. H. M. Somerville.

For Treasurer,
Thos. Cleland.

For Trustees,
Dr. Chas. Milne.
Dr. Elon N. Carpenter.
Richard B. Kimball.
Judge David McAdam.

For Permanent Commission,

LEGAL.
Judge L. A. Emery. of Maine.
Judge Elisha Carpenter, of Conn.

MEDICAL.
Peter Bryce, M.D., of Alabama.
Dr. W. W. Godding, of Washington.
Prof. Victor C. Vaughan. of Mich.

For Librarian,
Matthew D. Field.

For Asst. Librarian,
G. Bettini de Moise, M.D.

For 2nd Vice-President,
Albert Bach, Esq.
Judge D. McAdam.
Judge R. B. Westerbrook, of Phila.

For Secretary,
N. W. Lynde, M.D.
W. S. Baner. M.D.
Willard C. Humphrey, Esq.

For Asst. Secretary,
Wm. L. Baner, M.D.
Franklin R. Haines, Esq.

For Curator and Pathologist,
J. Clarke Thomas, M.D.
L. Bergheim, M.D.

Vice-Presidents for the States, Territories and Provinces.

Alabama—Judge Thos. W. Coleman, Montgomery.
Algeria—Dr. C. Perronnet, Algiers.
Arkansas—P. O. Hooper, M.D., Little Rock.
Austria—Prof. R. Krafft-Ebing, Vienna.
Belgium—Dr. Vleminckx, Brussels.
California—W. W. McFarlane, M.D., Agnew.
Colorado—Prof. J. T. Eskridge, Denver.
Connecticut—Dr. Henry P. Geib, Stamford.
Cuba—Dr. Venancio Zorilla, Havana.
Dakota—Judge William H. Francis, Bismarck.
Delaware—Gov. T. S. Biggs.
Denmark—Prof. Godeken, Copenhagen.
District of Columbia—W. W. Godding, M.D., Washington City.
England—Wm. L. Orange, M.D., Brighton.
Ecuador—Señor J. M. P. Cammano, Washington, D.C.
Florida—Dr. King Wyliy, Sandford.
France—Judge Barbier, Paris.
Georgia—Dr. Eugene Foster, Augusta.
Germany—Prof. D. Furstner, Heidelberg.
Holland—Dr. P. A. H. Sueens, Vucht.
Hungary—Staatsanwalt Emerich V. Havas, Buda Pesth.
Illinois—Dr. Milo A. McClelland, Chicago.
Indiana—W. B. Fletcher, M.D., Indianapolis.
Iowa—Dr. Jennie McCowen, Davenport.
Ireland—Dr. R. J. Kinkead, Galway.
Italy—Prof. Dr. P. Pellicani, Bologna.
Japan—Dr. Kensai Ikeda, Tokio.
Kansas—Judge Albert H. Horton, Topeka.
Kentucky—Dr. D. W. Yandell, Louisville.
Louisiana—Dr. Joseph Jones, New Orleans.
Maine—Judge L. A. Emery, Ellsworth.
Manitoba—Dr. D. Young, Selkirk.
Maryland—H. B. Arnold, M.D., Baltimore.
Massachusetts—Ed. J. Cowles, M.D., Somerville.
Mexico—Prof. Ramirez, Mexico.
Michigan—Victor C. Vaughan, Ann Arbor.
Minnesota—Prof. W. A. Hall, Minneapolis.
Missouri—Judge J. C. Normile, St. Louis.
Mississippi—Dr. C. A. Rice, Meridien.
Montreal—Daniel Clark, M.D., Toronto.
Nebraska—Dr. Wm. M. Knapp, Lincoln.
Nevada—S. M. Bishop, Reno.
New Brunswick—Judge A. L. Palmer, St. Johns.
New Hampshire—Hon. Daniel Barnard, Franklin.
New Jersey—Hon. Geo. A. Halsey, Newark.
New Mexico—Gov. Bradford L. Prince,
New South Wales Geo. A. Tucker, M.D.
New York—Mrs. M. Louise Thomas, New York City.
New Zealand—Prof. Frank G. Ogston, Dunedin.
North Carolina—Eugene Grissom, M.D., Raleigh.
Norway—Dr. Harold Smedal, Christiana.
Nova Scotia—Simon Fitch, M.D., Halifax.
Ohio—W. J. Scott, M.D., Cleveland.
Pennsylvania—Hon. Henry M. Hoyt, Philadelphia.
Peru—Señor F. C. C. Zegarro, Washington, D C.
Portugal—Prof. Dr. Antonio Henriques da Silva, Coimbra.
Rhode Island—Henry E. Turner, M.D., Newport.
Russia—Prof. Dr. Mierzejewski, St. Petersburgh.
Saxony—Judge de Alinge, Oberkotzon Hof.
Scotland—W. W. Ireland, Preston Pans, Edinburgh.
Servia—Hon. Paul Savitch, Belgrade.
Sicily—Prof. Dr. Fernando Puglia, Messina.
South Carolina—Dr. Middleton Michel, Charleston.
Spain—Prof. Dr. Jeronimo, Granada.
Sweden—Prof. Dr. A. Winroth, Lund.
Switzerland—Prof. Dr. August Forel, Zurich.
Tennessee—John H. Callander, M.D., Nashville.
Texas—Dr. D. R. Wallace, Terrell.
Utah—Le Grand Young, Esq., Salt Lake.
Vermont—Dr. J. Draper, Brattleboro.
Virginia—Dr. James D. Moncure, Williamsburg.
Washington Ter.—Ex-Gov. W. C. Squire, Seattle.
West Virginia—F. M. Hood, M.D., Weston.
Wisconsin—Dr. Jas. H. McBride, Wauwatosa.

The society then adjourned.

FRANKLIN R. HAINES,
Secretary *pro tem.*

ANNUAL MEETING.

PRESIDENCY OF CLARK BELL, ESQ.

December 10, 1890, Medico-Legal Society met at Hotel Buckingham, President CLARK BELL in the chair.

The minutes of November meeting were read and approved.

The President appointed as Tellers: Judge H. M. Somerville, Dr. Emily Kempin and Thomas Cleland, M. D,, to whom the ballots sent by the Assistant Secretary were delivered, and the polls opened.

The Executive Committee recommended the election of the following candidates:

ACTIVE MEMBERS.

Proposed by Judge C. G. Garrison: A. C. Smith, M. D., Bloomsburg, N. J.

Proposed by Clark Bell: J. J. Scott, M. D., Shreveport, La.; Dr. M. Etna, Worden, Mich.

Proposed by John W. Gibbs, M. D.: E. L. Macomb, Bristol, Md., of New York City.

CORRESPONDING MEMBERS.

Proposed by President Clark Bell: Frederic Bateman, M. D., Norwich, England; Prof. Cæsar Lombroso, Italy; Havelock Ellis, M. D., London, England; Prof. Matthias Duval, Director of the Laboratory of Anthropology, Paris, France; Prof. Bernheim, Nancy, France; Prof. Liegeois, Nancy, France; Prof. Beaunis, Nancy, France; Judge Walter Clark, Supreme Court, Raleigh, North Carolina; ex-Chief Justice A. C. Snyder, West Virginia; Chief Justice Joseph L. Lewis, Kentucky; Chief-Justice Joseph Gurie, Iowa; Chief Justice W. H. Batty, California; Chief Justice J. C. Helm, Colorado; Judge Byron K. Elliot, Supreme Court of Indiana; Judge Wm. E. Beck, ex-Chief Justice of Colorado; Judge E. W. Seymour, Supreme Court of Connecticut; Judge A. E. Maxwell, ex-Chief Justice of Florida; Judge H. L. Mitchel, Florida; Judge M. A. Blandford, Supreme Court of Georgia; Judge Thomas J. Simmons, Supreme Court of Georgia; H. W. McLanthin, Denver, Colorado, Prof. Kemp P. Battle, University of North Carolina; Chas. Edgworth Jones, Esq., Augusta, Georgia; Brother Hildouard, Director Belgian Brothers of Charity, Montreal, Canada; Judge D. B. Lucas, Supreme Court of Charlotte, West Virginia; Judge Homer A. Holt, Supreme Court of Lewisburgh, West Virginia.

One being balloted for, the several candidates were declared duly elected.

Dr. W. P. SPRATLING of Morris Plains, N. J., read a paper entitled "Moral Insanity," which was discussed by Albert Bach, President Bell, Judge H. M. Somerville and others, and the discussion closed by the author.

In the absence of the author, President Bell read the paper of Prof. J. J. ELWELL, entitled "Epilepsy as a Defense in Criminal Cases," being the continuation of same subject of former paper.

This paper was discussed by Judge H. M. Somerville, Albert Bach, the President, Dr. W. P. Spratling and others.

Mr. Albert Bach, on request of the President, read a paper entitled "Is the Mere State of Drunkenness not an Excuse for Crime?" by A. WOOD RENTON, ESQ., of London, England.

The President read a paper entitled "Sudden and Unexpected Death," by GEO. D. WILCOX, M. D., of Providence, R. I., in the absence of the author.

The President also read a paper entitled "Hypnotism," by W. H. PALMER, M. D., of Providence, R. I.

The Tellers announced that 62 votes had been polled, and the following officers had received a majority of all the votes cast:

For President,
Clark Bell, Esq.

For 1st Vice-President,
Hon. H. M. Somerville.

For Librarian,
Matthew D. Field.

For 2d Vice-President,
Albert Bach, Esq.

For Asst. Secretary,
Franklin H. Haines, Esq.

For Corres. Secretary,
Moritz Ellinger, Esq.

For Treasurer,
Thos. Cleland.

For Chemist,
Prof. H. A. Mott, Jr.

For Trustees.
Dr. Chas. Milne.
Judge David McAdam.

For Asst. Librarian.
C. Bettini de Moise, M.D.

For Secretary,
Williard C. Humphreys, Esq.

For Curator and Pathologist,
J. Clarke Thomas, M.D.

Vice-Presidents for the States, Territories and Provinces.

Alabama—Judge Thos. W. Coleman, Montgomery.
Algeria—Dr. C. Perronnet, Algiers.
Arkansas—P. O. Hooper, M.D., Little Rock.
Austria—Prof. R. Krafft-Ebing, Vienna.
Belgium—Dr. Vleminckx, Brussels.
California—W. W. McFarlane, M.D., Agnew.
Colorado—Prof. J. T. Eskridge, Denver.
Connecticut—Dr. Henry P. Geib, Stamford.
Cuba—Dr. Venancio Zorilla, Havana.
Dakota—Judge William H. Francis, Bismarck.
Delaware—Gov. T. S. Biggs.
Denmark—Prof. Godeken, Copenhagen.
District of Columbia—W. W. Godding, M.D., Washington City.
England—Wm. L. Orange, M.D., Brighton.
Ecuador—Señor J. M. P. Cammano, Washington, D.C.
Florida—Dr King Wylly, Sandford.
France—Judge Barbier, Paris.
Georgia—Dr. Eugene Foster, Augusta.
Germany—Prof. D. Furstner, Heidelberg.
Holland—Dr. P. A. H. Sueens, Vucht.
Hungary—Staatsanwalt Emerich V. Havas, Buda Pesth.
Illinois—Dr. Milo A. McClelland, Chicago.
Indiana—W. B. Fletcher, M.D., Indianapolis.
Iowa—Dr. Jennie McCowen, Davenport.
Ireland—Dr. R. J. Kinkead, Galway.
Italy—Prof. Dr. P. Pellicani, Bologna.
Japan—Dr. Kensai Ikeda, Tokio.
Kansas—Judge Albert H. Horton, Topeka.
Kentucky—Dr. D. W. Yandell, Louisville.
Louisiana—Dr. Joseph Jones, New Orleans.
Maine—Judge L. A. Emery, Ellsworth.
Manitoba—Dr. D. Young, Selkirk.
Maryland—H. B. Arnold, M.D., Baltimore.
Massachusetts—Ed. J. Cowles, M.D., Somerville.
Mexico—Prof. Ramirez, Mexico.
Michigan—Victor C. Vaughan, Ann Arbor.
Minnesota—Prof. W. A. Hall, Minneapolis.
Missouri—Judge J. C. Normile, St. Louis.
Mississippi—Dr. C. A. Rice, Meridien.
Montreal—Daniel Clark, M.D., Toronto.
Nebraska—Dr. Wm. M. Knapp, Lincoln.
Nevada—S. M. Bishop, Reno.
New Brunswick—Judge A. L. Palmer, St. Johns.
New Hampshire—Hon. Daniel Barnard, Franklin.
New Jersey—Hon. Geo. A. Halsey, Newark.
New Mexico—Gov. Bradford L. Prince,
New South Wales Geo. A. Tucker, M.D.
New York—Mrs. M. Louise Thomas, New York City.
New Zealand—Prof. Frank G. Ogston, Dunedin.
North Carolina—Eugene Grissom, M.D., Raleigh.
Norway—Dr. Harold Smedal, Christiana.
Nova Scotia—Simon Fitch, M.D., Halifax.
Ohio—W. J. Scott, M.D., Cleveland.
Pennsylvania—Hon. Henry M. Hoyt, Philadelphia.
Peru—Señor F. C. C. Zegarro, Washington, D C.
Portugal—Prof. Dr. Antonio Henriques da Silva, Coimbra.
Rhode Island—Henry E. Turner, M.D., Newport.
Russia—Prof. Dr. Mierzejewski, St. Petersburgh.
Saxony—Judge de Alinge, Oberkotzon Hof.
Scotland—W. W. Ireland, Preston Pans, Edinburgh.
Servia—Hon. Paul Savitch, Belgrade.
Sicily—Prof. Dr. Fernando Puglia, Messina.
South Carolina—Dr. Middleton Michel, Charleston.
Spain—Prof. Dr. Jeronimo, Granada.
Sweden—Prof. Dr. A. Winroth, Lund.
Switzerland—Prof. Dr. August Forel, Zurich.
Tennessee—John H. Callander, M.D., Nashville.
Texas—Dr. D. R. Wallace, Terrell.
Utah—Le Grand Young, Esq., Salt Lake.
Vermont—Dr. J. Draper, Brattleboro
Virginia—Dr. James D. Moncure, Williamsburg.
Washington Ter.—Ex-Gov. Wm. C. Squire, Seattle.
West Virginia—F. M. Hood, M.D., Weston.
Wisconsin—Dr. Jas. H. McBride, Wauwatosa.

and that no choice had been made for Permanent Commission or for Trustee on the Legal Side.

The report of the Tellers was received, and the Chair declared the officers duly elected as reported.

The society then proceeded to the election of members of the Permanent Commission. On balloting, Judge Elisha Carpenter of Connecticut was declared elected, vice David Dudley Field, whose term expires; and Peter Bryce, M. D., vice Prof. R. O. Doremus, whose term expired, each for the term of three years. Judge David McAdam was elected Trustee for the term of three years, vice Richard B. Kimball, whose term expired.

The Treasurer not having made the annual report her time was extended to January meeting, with leave to report earlier to Executive Committee.

The Chair announced the action of the Executive

Committee in regard to the Annual Banquet, a copy of which had been forwarded by mail to every active and resident corresponding member.

The Society then adjourned.

EMILY KEMPIN,
Secretary.

JANUARY MEETING.

PRESIDENCY OF CLARK BELL, ESQ.

Medico-Legal Society met on Jan. 14, 1891, at Hotel Buckingham. President CLARK BELL in the Chair. In the absence of the late Secretary, the reading of the minutes of the annual meeting was deferred.

The following persons were elected on the recommendation of the Executive Committee.

ACTIVE MEMBERS.

Proposed by CLARK BELL, ESQ.: Dr. W. W. Hester, Clifton House, Chicago, Ill.; M. L. Bates, Canaan, Four Corners, N. Y.; Louis D. Fischer, 40 Rivington street, N. Y. City; Dr. O. B. Wingate, Health Commissioner, Milwaukee, Wis.; J. B. Mattison, M. D., 314 State street, Brooklyn, N. Y.; F. Grover Burnett, 47 Bankers Building, Kansas City, Mo.; Geo. W. King, Marysville, Montana.

Proposed by Dr. J. Frank Blyer: Dr. Joseph Stern, N. Y. City.

CORRESPONDING MEMBERS.

Proposed by CLARK BELL, ESQ.: Henry Thiery, 7 Rue Guy Labrosse, Paris; Judge L. B. Watkins, 138 Charles street, New Orleans, La.; Judge Reuben R. Gaines, Austin, Texas; Judge John L. Henry, Austin, Texas; Judge A. S. Walker, ex-Judge Supreme Court, Austin, Texas; Hon. Charles S. Morse, Austin, Texas; Judge

Felix P. Poche, Justice Supreme Court, New Orleans, La.; Judge Samuel McEnery, Justice Supreme Court, New Orleans, La.; Judge Chas. E. Fenner, Justice Supreme Court, New Orleans, La.; Judge D. M. Valentine, Justice Supreme Court, Topeka, Kansas; Judge W. A. Johnston, Justice Supreme Court, Topeka, Kansas; Judge Ignatius C. Grubb, Justice Supreme Court, Dover, Del.; Judge John H. Stiness, Justice Supreme Court, R. I.; Judge Chas. Mathesan, Justice Supreme Court, R. I.; Judge Pardon E. Tellinghast, Justice Supreme Court, R. I.

Proposed by Dr. Field : Judge Willard Bartlett, Brooklyn, N. Y.

The President then called to the Chair Judge A. L. Palmer of New Brunswick, Canada.

The officers elected at the annual meeting were then duly installed.

The President elect, CLARK BELL, pronounced his Inaugural Address.

President BELL then resumed his position in the Chair.

Judge H. M. Somerville moved that a committee of three be named by the Chair to whom the recommendations of the Inaugural address of the President be referred with instructions to report at the February meeting. Carried unanimously.

The Chair named as such committee Judge Somerville, Dr. Isaac Lewis Pett and Prof. H. A. Mott, Jr.

The report of the Treasurer was called for. The Treasurer was not present and no report had been forwarded to the Secretary.

The Standing Committee on National and State Chemists was read, and on motion, unanimously approved.

The annual report of the Trustees, not having been made, the time for completing the same was extended one month.

The Standing Committee on Hypnotism made a preliminary report through Wilson MacDonald, who made the same.

The report was received. On motion after informal discussion by Judge Somerville, the further discussion of the report was deferred to the February meeting.

The report of the Standing Committee on the Morgue was then read and received. On motion of Judge Somerville the report was adopted.

On motion of vice-President Bach, it was moved that the Inaugural address of the President and accompanying papers with the reports be published by the society in pamphlet form for immediate circulation.

The Society then adjourned.

WILLARD C. HUMPHREYS.
Secretary.

Journals and Books.

THE GREEN BAG. Boston Book Co.

This journal completes its second volume with the December number of 1890. It is doubtful if any new legal journal has ever accomplished half as much in so short a time.

We have its first volume bound, and we regard it with great appreciation.

The universal verdict in 1889 was favorable to the new venture, largely due to the enterprise and tact of CHARLES C. SOULE, the president of the company that publishes it. and to the acumen and enterprise of HORACE W. FULLER, its editor. But the volume of 1890 will far surpass that of 1889. This is due largely to its illustrations, which are excellent, as well as the subjects.

The April number contained an article from the pen of IRVING BROWN, editor of the Law Journal, on the Albany Law School, with portraits of its professors, past and present.

The June number contained an article on the Supreme Court of Canada, by Robert Cassels with portraits of its Judges.

The August number contained an article on the New York Court of Appeals, by IRVING BROWN, with groups of the Judges of the first and second divisions of that court, and portraits of judges Sanford E. Church, Wm. F. Allen, Martin Grover, Rufus W. Peckham, Chas. J. Folger, Chas. F. Rapallo, of the deceased judges; Theodore Miller and Geo. L. Danforth, of the judges retired by age; of Chief Justice Ruger and Judges Andrews and Earl, of the present court.

The September number contained a sketch of the Supreme Court of Michigan, by HENRY A. CHANEY, with portraits of the judges of that court; and the October number a sketch by LEONARD M. DAGGETT, of the Supreme Court of Connecticut, with portraits of the present judges of that court, and of some of the deceased judges of that bench. Similar series will follow in the future numbers of this journal.

We believe this journal will be taken by the bar and judiciary of the country quite generally, and that it is justly entitled to the success it has achieved.

NEW YORK CITY AND VICINITY DURING THE WAR OF 1812-15, being a Military, Civic and Financial Local History of that period. By R. S. GUERNSEY; Vol. I., 1889, pp. 480. Charles L. Woodward, 78 Nassau st., New York. Limited edition.

This work is much more than its name indicates, and will be found a valuable contribution to social as well as military history. This is a reliable contribution to historical literature in the preservation and bring-

ing from obscurity many details that belong to that period, and is a faithful chronicle of the local events of that time.

This volume is particularly valuable in an economic point of view for showing the social condition of New York City at that time. It gives the number of inhabitants by sexes, number of freeholders, tenants, slaves, and aliens; the number and style of houses and their location; the building laws restricting their construction: the public buildings, parks, etc.; the social and business habits, dress, dinners and amusements.

The work is valuable both to the antiquarian and to the student of our early history.

Mr. Guernsey is a careful, painstaking student of any subject on which he enters, and the wealth of statistical information here presented may be regarded as reliable and authentic. He possesses superior qualifications for such a work, and his tastes and studies have admirably fitted him for the preparation of such a volume so intimately related to the infancy of our country and the conspicuous part which the City of New York bore in that day to the developing civilization of the western world.

F. A. Davis & Co., Philadelphia.

This enterprising house came out with their usual physicians' visiting lists and diary, but this fall they have contributed a superb Account Book for Physicians, arranged with tables so as to show number of visits, date of month, the name of the person sick, the disease, and nature of the visit.

It is the invention of Dr. Wm. A. Siebert, and is one of the most complete tabulated books to show the service of a Physican we have ever seen. They cost from $5 to $8, depending on how they are bound.

Aphasia and Localization of the Faculty of Speech. By Fred. Bateman, M.D. J. & A. Churchill, Jarrold & Sons, London, (1890.)

This is a book which will interest all neurologists, and reflects great credit on its author, for the research and care, as well as fairness of the discussion, which is raised between the several schools of thought.

That part of the work most interesting to us, is the chapter on the Medical Jurisprudence of Aphasia, the hints on criminal Anthropology, the Chemistry of the Brain, and the question of Localization of the Faculty of Speech.

In his own short analysis the author speaks of the first as follows:

"The Jurisprudence of Aphasia, a question not hitherto treated by any British author, forms the subject of an entirely new chapter, in which the author considers the capacity of speechless persons to make a will, or to manage their affairs generally. The question of the civil and criminal responsibility of speechless persons, whether deaf-mutes or otherwise, is a subject of capital importance to the medical jurist."

Chapter X. of the work treats of this subject, and we greatly regret that our want of space presents giving it entire.

The Chemistry of the Brain is really in its infancy, but the surverys are under way, and, we look for light here in the near future.

Criminal Anthropology is rather introduced than elucidated. It takes up the problems, but the work is only an introduction to its study.

The summing up of the very able discussion on localization of the faculty of speech, which gives large space to the views of such American observers as Prof. Chas. K. Mills, Prof. W. A. Hammond, M. Allen Starr, Dr. Park, of Buffalo, Prof. Ladd, of Yale, among notable authorities of all countries, is as follows:

"I am bound to say, that in spite of all that has been written in reference to it, the question must still be considered as *sub-judice*, and an impartial sifting of the mass of evidence I have accumulated has led me to the following conclusions:

"1. That although something may be said in favor of each of the popular theories of the localization of speech, still so many exceptions to each of them have been recorded that they will none of them bear the test of a disinterested and impartial scrutiny.

"2. That aphasia certainly is not invariably connected with lesion of the left anterior lobe of the brain.

"3. That the converse of this is not true, also, namely that when a positive lesion of the left anterior lobe exists, aphasia is necessarily one of the symptoms; moreover medical literature contains numerous instances of extensive lesions of *both* anterior lobes without serious impairment of speech, and cases of this description recorded by competent observers, must be taken into serious account, in settling the question of localization they must be faced by the localizers, and their significance cannot be ignored.

"4. That it must, however, be conceded, that in the immense majority of cases aphasia has been found associated with disease in the left anterior lobe, and more especially in the third left frontal convolution, or its immediate neighborhood; and the concurrence of derangements of speech, with lesions of this limited area, is so strikingly frequent, as to take it altogether out of the region of mere chance." (p.p. 350-351).

He concludes this branch of inquiry as follows:

"After weighing the conflicting evidence contained in the preceding pages, I think the Scotch verdict of 'not proven' may fairly be claimed in reference to any arbitrary and definite localization of the faculty of speech; and the most that can be conceded is that the healthy action of a limited portion of the left hemisphere seems to be necessary for the *outward* manifestation of articulate language; but this fact does not justify crediting this area with being the *seat of speech*—an expression, which seems to me to be inappropriate and misleading.

"I cannot do better than conclude this chapter with a quotation from the classical work of Professor Kussmaul:

"For the purposes of speech there exists an apparatus as vast as it is complicated. A simple *centre of language* or *seat of speech* does not exist in the brain any more than a *seat of the soul* exists in a single centre.

"The central organ of speech may be said to be composed of a large number of ganglionic aparatuses, widely separated from each other, but connected by numerous tracts and fulfilling certain intellectual sensory and motor functions; but it is probable that none of these apparatuses subserve alone the objects of speech.'* (p.p. 357-358).

The work on the whole is a very valuable contribution to the literature of Aphasia and will be welcomed by all Neurologists.

It is in reality a second edition after 20 years of his former work on the same subject, published in 1870 and long since out of print.

*Die Storungen der Sprache, Chap. ix, S. 33.

Books, Journals & Pamphlets Received.

DR. D. AUG. M. FERNANDEZ.—Diagnostic de la fiebre Amarilla. Notes on case of double fœtus.

MEDICO-LEGAL SOCIETY OF CHICAGO.—Proceedings of October Meeting, (1890).

M. H. LACKERSTEEM, M.D.—Hypnotism, Treatment by Suggestion.

GEO. W. CHILD'S, ESQ.—Recollections of General Grant.

F. A. DAVIS & CO., PHIL.—Central Nervous System, by Ellinger, Translated by Vittum and Edited by Prof. C. Eugine Riggs, p.p. 230 (1890).

TEXT BOOK HYGIENE.—By Geo. H. Rohe, M.D,, p.p. 421 (1890).

J. & V. CHURCHILL, LONDON.—Aphasia by Dr. Fred Bateman, p.p. 420 (1890) 2d edition.

HIRSCHFIELD BROS., LONDON.—The Animal Alkaloids, 2d edition, by A. M. Brown, M. D., p. p. 252 (1889).

AMERICAN BAR ASSOCIATION.—Reports of 1889 and 1890.

FRANK LESLIE'S MONTHLY.—The Christmas number is most excellent. The holly and gold on the cover is artistic, and the volume just closed is fully up to its predecessors. Mrs. Frank Leslie's ability, if truthfully stated, would sound like an exageration.

THE MONIST.—A new Quarterly from the Open Court Publishing Company. appeared in October. Its opening number contains papers of a high order, and this quarterly will be in the front rank among the Journals of Philosophy and advanced thought in this country.

NORTHERN MICHIGAN INSANE ASYULM.—The biennial report of this Institution for 1889 and 1890, is a model for an elaborate asylum report. The illustrations of the building, are without exception the finest from an artistic standpoint we have ever seen.

The report of Dr. Jas. D. Munson, the Medical Superintendent is almost a treatise on insanity.

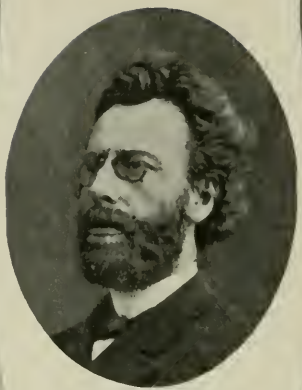
We regret as he decided to adopt a new classification that he did not select the one adopted at the Paris International Congress of Mental Medicine of 1889, and commence on one of International concurrence, but this is not to underate the excellent one he did adopt.

Dr. C. C. Chaddock's paper on "Alcholic Cases" is a valuable part of the report, as is Dr. W. A. Stone's remarks upon "Epilepsy."

THE ALIENIST AND NEUROLOGIST.—Commences its 12th volume by a superb number. Dr. Hughes has made this Journal peerless in its field on this side the Atlantic.

TEXAS SIFTINGS.—If there is a brighter, more spicy, or agreeable weekly than this, we don't see it. Armoy Knox, as manager, and Sweet and Griswald as editors, make a journalistic trio hard to equal, and impossible to beat.

DR. VICTOR DESGUIN.



DR. JULES MOREL.

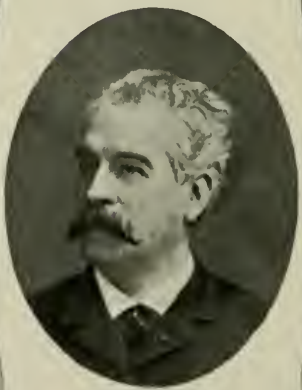
DR. VLEMINCKX.

PROF. PAUL HEGER.

DR. B. C. INGELS.

MONSIEUR ALFRED MOREAU.

DR. J. A. PEETERS.



DR. SEMAL.

BROTHER HILDOUARD.

DR. DE CRAENNE.

DR. F. LENTZ.

BELGIAN GROUP.

Dr. B. C. Ingels, now some years dead, was the founder of the Belgian Society of Mental Medicine and for many years its secretary. He was the Superintendent of the Hospice Guislain at Ghent, the friend and companion of Guislain, and succeeded him at that Asylum, and no man in Belgium stood higher in public regard at the moment of his death.

Dr. Jules Morel, ex-President of the Society of Mental Medicine, is now and for some years has been its Secretary and Treasurer. He succeeded Dr. Ingels as Medical Superintendent at the Hospice Guislain at Ghent, and is editor of the Bulletin of the Belgian Society of Mental Medicine.

He is one of the foremost of the Alienists of Belgium at the present moment and stands very high among his confréres as well as in the scientific world.

Dr. Morel is vice-President International Medico-Legal Congress, and we are proud to call him a warm personal friend, we have twice been his guest and shall not forget his many kindnesses.

Dr. Victor Desguin is one of the most able, brilliant and capable of the ex-Presidents of the Belgian Society of Mental Medicine. Always a writer of acknowledged merit and position, occupying a position in the front rank among the Belgian Physicians of recognized authority, it has been the good fortune of the Government to secure his valuable services as Medical Director of the Insane Hospital at the chief Maritime City of Belgium. We shall not soon forget his hospitality nor

the charming intercourse we had on a recent visit to Belgium with his interesting family.

Dr. Peeters is Medical Superintendent of the Colony of the Insane at Gheel, a position he has long held and for which he is in every way eminently qualified. He is also at the head of the Insane Hospital there, where the insane are first sent for observation and subsequent distribution in the Colony.

He has lately been decorated by the Government of Belgium, a well-merited tribute to the regard, in which he is held by students of the care and treatment of the Insane throughout the world.

Dr. Vleminickx is President of the Medico-Legal Society of Belgium, and one of the most prominent of the Medicine Legists of Belgium.

He is the founder of the Body, and it is composed mainly of the eminent men of that country who are called into the courts, as experts, and of medical men who have given the subject special study and attention As at present organized it does not contain any members of the legal profession or of the judicary on its roll of members.

Dr. Vleminickx has been long regarded as in the front rank of the medical men of Belgium who have made Forensic Medicine a special subject of study.

Dr. Semal, an ex-President of the Belgian Society of Mental Medicine, is Superintendent of the Asylum for the Insane at Mons. He is a scholarly man and eloquent speaker, and is one of the foremost of the Belgian Alienists.

Prof. Heger, also an ex-President of the Belgian Society of Mental Medicine is a Professor in the University at Brussels. He holds a prominent and influen-

tial position among the Scientists of his country in the domain of Mental Medicine.

Dr. de Craenne, is Medical Superintendent of the Asylum for the Insane at Courtrai in Belgium, and has been a vice-President of the Belgian Society of Mental Medicine.

Dr. Lentz, is Medical Superintendent of the New Government Asylum for the Insane at Tournai, the largest and most complete establishment in the kingdom. He has served as President of the Belgian Society of Mental Medicine and also as its Treasurer.

Monsieur Alfred Moreau, is an eloquent member of the Bar of Brussells, an advocate before the Court of Appeal of the Kingdom, who has a taste for Medico-Legal studies, and a man of position and high influence at the Bar of his country.

Brother Hildouard, is one of the ablest men of the religious brotherhood who have the charge of the Insane in the Asylums of Belgium. He speaks English, French, and Flemish fluently. For some years he was the head of the business management of the Hospice Guislain with Dr. B. C. Ingels, and later, with Dr. Jules Morel. More recently he has been promoted to represent his order in Canada, at the School of Reform at Montreal. He is very intelligent, conscientious, and probably the best informed man this side the Atlantic of the working of the Belgian Institutions, and can not fail to be of signal service in his new field of labor in Montreal. We hope to see him connected with the service of the insane at the Longue Point Asylum, a position for which no man in America now is better adapted.

MEDICO-LEGAL SOCIETY.

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JUDGE H. M. SOMERVILLE

2nd Vice-President.
ALBERT BACH, ESQ.

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Michigan—Victor C. Vaughan, Ann Arbor.
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Mississippi—Dr. C. A. Rice, Meridien.
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New Mexico—Gov. Bradford L. Prince,
New South Wales Geo. A. Tucker, M.D.
New York—Mrs. M. Louise Thomas, New York City.
New Zealand—Prof. Frank G. Ogston, Dunedin.
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Sweden—Prof. Dr. A. Winroth, Lund.
Switzerland—Prof. Dr. August Forel, Zurich.
Tennessee—John H. Callander, M.D., Nashville.
Texas—Dr. D. R. Wallace, Terrell.
Utah—Le Grand Young, Esq., Salt Lake.
Vermont—Dr. J. Draper, Brattleboro.
Virginia—Dr. James D. Moncure, Williamsburg.
Washington Ter.—Ex-Gov. Wm. C. Squire, Seattle.
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JUDGE ELISHA CARPENTER.
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JUDGE C. G. GARRISON.

Medical,
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R. L. PARSONS, M.D.
PROF. F. D. WEISSE.

The Officers elected by the Congress held June 4th to 7th, 1889, in New York, were as follows:

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CLARK BELL, ESQ., of New York.

VICE-PRESIDENTS.

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Chief-Justice Edward F. Bermudez, of La.
Gov. Biggs, of Delaware.
Dr. Daniel Clark, of Toronto, Canada.
Ex-Chief-Justice Noah Davis, of N. Y.
Dr. Edward J. Doering, of Illinois.
Prof. John J. Elwell, of Ohio.
Judge W. H. Francis, of North Dakota,
Dr. W. W. Godding, of Washington, D. C.
Dr. Eugene Grissom, of N. C.
Dr. Carl H. Horsch, of N. H.
Judge Locke E. Houston, of Miss.
Dr. Charles H. Hughes, of Mo.
Dr. W. W. Ireland, of Scotland.
Prof. Robt. C. Kedzie, of Mich.
Dr. Norman Kerr, of England.
Dr. Jennie McCowen, of Iowa.
Dr. Jules Morel, of Belgium.
Dr. Connolly Norman, of Ireland.
Prof. John J. Reese, of Pa.
Dr. Bettincourt Rodrigues, of Portugal.
Judge H. M. Somerville, of Ala.
David Steward, Esq., of Maryland.
Theo. H. Tyndale, Esq., of Mass.

The following Vice-Presidents have since been named by the President:

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Prof. Dr. Benedikt, for Austria.
Hon. C. H. Blackburn, for Ohio.
Prof. Brouardel, for France.
Sig. J. M. P. Cammao, for Equador.
Judge Elisha Carpenter, for Conn.
Prof. Millen Coughtrey, for N. Zealand.
Dr. J. S. Dorsett, for Texas.
Judge L. A. Emery, for Maine.
Dr. I. T. Eskridge, for Colorado.
Dr. Enrico Ferri, for Italy.
Dr. Simon Fitch, for Nova Scotia.
Judge C. G. Garrison for New Jersey.
Dr. Vincent de la Guardia, for Cuba.
Prof. Axel Key, for Sweden.
Doctor Herman Kornfeld, for Silesia.
Prof. Dr. Paul Kowalewski, for Russia.
Prof. Dr. J. Maschka, for Bohemia.
Dr. Y. R. Le Monnier, for Louisiana.
Sen. Don Rafael Montefar, for Guatemala
Judge A. L. Palmer, for New Brunswick
Doctor Vau Persyn, for Holland.
Hon. Jas. H. Peters, for Pr. Ed. Isld.
T. Crisp Poole, for Queensland, Australia
Dr. Thos. O. Powell, for Georgia.
Hon. Hon. Han. Price, for Hayti.
Gov. L. Bradford Prince, for N. Mexico
Dr. H. K. Pusey, for Kentucky.
Sen. Watson C. Squire, for Washington.
Dr. Von Steenberg, for Denmark.
Hon. A. M. Alvarez Taladriz, for Spain.
Dr. Geo. A. Tucker, for New S. Wales.
Senator Andrea Verga, for Italy.
Prof. Dr. D. Vleminicks, for Belgium.
Prof. Dr. Wiile, for Switzerland.
Dr. C. E. Wright, for Indiana.
Mr. Le Grand Young, for Utah.
Sig. F. C. C. Zegarra, for Peru.

SECRETARY.

MORITZ ELLINGER, ESQ., of New York.

ASSISTANT SECRETARIES.

FRANK H. INGRAM, M. D., of N. Y. W. J. LEWIS, M. D., of Conn.

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PROF. BROUARDEL,
Ex-President Medico Legal Society of France. Dean of the Faculty of Medicine,
Paris, France.

JUDGE T. C. BARBIER,
Premier President-honoraire-de la Cour de Cassation,
Paris, France.

JOHN C. BUCKNIL, M. D.,
Ex-Lord Chancellor's visitor in Lunacy, Ex-President British Medico Psychological Ass.,
London, England.

FORDYCE BARKER, M. D.,
Ex-President N. Y. Academy of Medicine, New York City.

PROF. CHARCOT,
Editor Archives de Neurologie, Physician at Salpetriére,
Paris, France.

ERNEST CHAUDÉ,
Ex-President Medico Legal Society of France, Advocate before Court of Appeal, Paris, France.

HON. CHARLES P. DALY,
Ex-Chief Justice Court of Common Pleas, New York City.

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HON. NOAH DAVIS,
Ex-Chief Justice Supreme Court of New York, New York City.

HENRY MAUDSLEY, M. D.,
Ex-President British Medico. Psychological Association,
London, England

PROF. DR. J. MASCHKA,
Author on Medical Jurisprudence, Prague, Bohemia.

LOUIS PENARD, M. D.,
Ex-President Medico Legal Society of France, Paris, France.

D. HACK TUKE, M. D.,
Editor Journal of Mental Science. London, England

CORRESPONDING MEMBERS.

AMERICAN.

Baker, L. W., M. D., Supt. Home for Epileptics, Baldwinsville, Mass.
Bedford, Hon. Gunning S., Ex-Judge Criminal Court, N. Y. City.
Bell, A. N., M. D., Editor Sanitarian, N. Y. City.
Bradley, Hon. Geo. B., Judge Court of Appeals, Corning, N. Y.
Buckham, T. R., M. D., Medical Expert, Flint. Mich.
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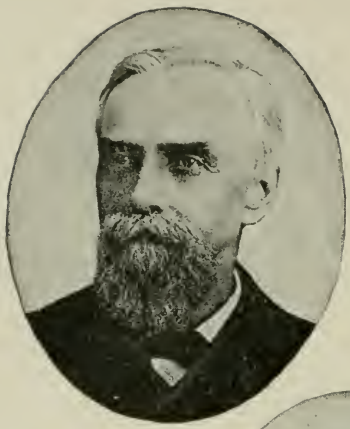

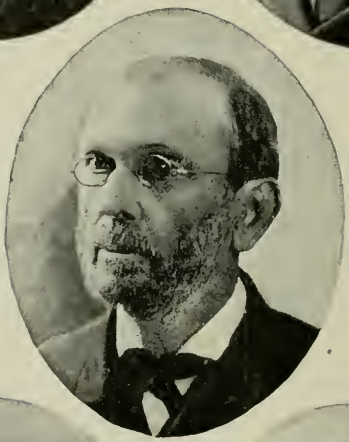

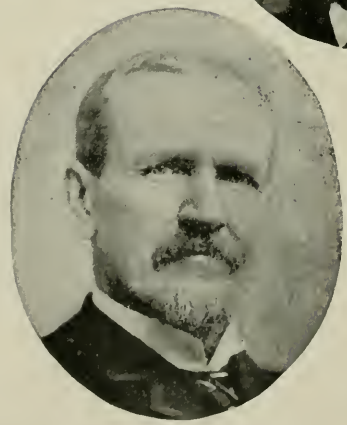

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*NATIONAL AND STATE CHEMISTS IN THE COURTS OF LAW.**

By Clark Bell, Esq.,
President of the Medico-Legal Society of New York.

CHEMISTRY.

Chemistry stands as a base, as a foundation and corner-stone for nearly all science ; on it rests most of the scientific research of our era.

In medicine it lies at the very root. A chemist need not be, and the great chemist doubtless ought not to be, a physician. But no physician should dare to enter even the portals of the temple of medicine, without bathing in the waters and acquiring the mysteries of chemistry.

Chemistry seems to my eyes, to be not unlike the angel who rolled the stone away from the sepulchre two thousand years ago, revealing those mysteries which the faithful see in the resurrection, and opening the door and way for the light to come forth.

Chemistry is the prolific mother of all the world's wealth. The earth is her treasure house, the sea her hand-maiden, the air and fire her willing servants, who come at her beck, and go at her nod.

Steam and heat are only too happy to bear her burdens, and light and electricity are her swift-winged messengers. Her students and votaries live in that charmed life and atmosphere, in which she envelopes her mysteries.

To her there is nothing new, but she withdraws the

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veil which obscures human vision in our century, to her favorites little by little, as to secrets, that she may have blazoned at noonday, in the prehistoric times, to the priests, who then kept up the sacred fires upon the altars, within her temples.

To-day she tells us, by the spectroscope, the organic constitution of the sun, and speculates upon the gases, and incomparable heat, of fires, at the centre of our solar system, which we see reflected in the organism of the myriads of the fixed stars.

She is greater than fortune, for all the known gems of the world, do not equal the contents of a single cabinet, in any one of thousands of apartments in her treasure house.

She has unfolded to our era, many of her old truths, which touch on the life, health, and happiness of mankind, and which lie underneath all the commerce, the industries and the arts of the world, and touch on every side the civilization of the age.

She holds the key to all the chambers of knowledge, now sealed to our vision, and it is to her we look, within the next century, for the advancing steps of a higher civilization, depending upon her caprice as to how much farther she may put aside that impenetrable curtain, which conceals and hides the unknown and unattainable.

When she speaks as a witness in the tribunals, where life and death and character are in the balance, she is always voiceless, unless absolutely infallible.

If she does not demonstrate beyond question, or cavil, or doubt, she should be silent.

The light from her lamp must be clear, certain, unerring, true, exact, and unquestionable.

She deals not in suspicion, not in conjecture. If in

doubt, her evidence must not be taken, nor her voice heard.

If the poison is found, if the analysis detect it, if all proper precautions are taken and the facts remain, then her voice is inexorable because it is truth. It is the voice of nature, the voice of the Infinite.

This highest evidence, this light which science throws upon the labors of the courts, in the administration of justice, deserves in our states that careful recognition which exists in many other countries of the world.

We need such a man at the service of the nation as Dr. Thomas Stevenson is to the Government of Great Brittain, who succeeds that eminent man, Dr. R. Swayne Taylor.

We need such a man here as Brouardel is to France, and as the great Orfila was to his own country.

Such a laboratory at Washington, with one of our best chemists at its head, would advance the study of the science incomparably beyond our present ideas and plans.

It would be the centre of all the schools, for the study of the science, both at the National Capital and in the States, worthy the nation, and worthy the science.

The administration of justice in criminal trials, notably in cases of alleged or suspected poisoning, deserves the thoughtful attention of jurists, publicists, and legislators.

The duty lies upon every human government organized for the full protection of society, to take every step in its power, as well to trace and detect the prisoner, as to defend the innocent unjustly accused or suspected.

So far as human punishments go, there is nothing the guilty can suffer, short of actual death, more terrible, than that which the innocent endures, who rests through

life under the general and apparently well grounded suspicion and belief of guilt.

The problem in these cases usually is: Was poison administered by the accused? And all will agree with the wisdom of the legal maxim, "better ten guilty ones escape than one innocent suffer."

Cruel as is the fate of the innocent unjustly accused, wrongfully suspected, and resting through life under the suspicion of guilt, it does not touch upon the borders even, of that terrible despair, endured by the innocent one wrongfully committed and condemned who suffers the extreme penalty of the law.

In a government like that of the United States of America, composed of several States, united as a whole, where the State authorities assume the responsibility for all cases, except such as belong exclusively to the jurisdiction of the general Government, the responsibility is divided between Congress (whose duty is clear in cases within the national jurisdiction as to the trial and punishment of offenders under and against the laws of the nation) and the legislatures of the States, for offences committed against State laws.

The American Union, however, is the guardian, protector, and foster-mother, of all the people of all the States, and has the power, the right, and should be quick to assume the duty, of enhancing the public good, even though the effects and beneficial results, fell mainly on the poor, the wretched and lowly.

Every criminal judge, prosecuting attorney, and more especially every counsel for the prisoner, in this class of cases, acutely feels, the great public need of skilled and competent chemical advice in such cases—advice based upon the most careful analysis, the most critical

and crucial tests, with the aid of every appliance known to chemical science.

Every consideration binds our judgment to the decision that this advice should be unbiased, impartial, clear, able and convincing.

The accused, if poor, under our system is absolutely powerless to obtain this evidence.

The Government, if bound to protect the innocent, has taken no steps to discharge its obligation.

The duty to provide a national chemist is too plain to be even challenged.

It cannot for one moment be denied.

The only question is, or should be, how can Congress for the nation, and the legislature for the States, best meet this issue and discharge this obligation?

The cost of a careful and elaborate chemical analysis in a poisoning case, where the accused is poor and friendless, is so great that our present system is a practical miscarriage of or denial of justice, when the poor, though innocent, stand accused.

We submit that the plain duty of Congress is to create and designate a public official, to be called the chemist of the nation, whose duty should be, by his oath of office, to conduct all such investigations, as a careful searcher after the truth, as well for the accused as for the people.

The salary should, of course, be sufficient to command the highest talent in the nation, and the laboratory should be so equipped as to reflect credit on our Government for its completeness, in every respect, known to the student of chemistry or in contrast with any laboratory in the world.

For the States, it is on too low a plane to discuss such a question as this, in its relation to the whole people of a

State, and to oppose such a measure in a State upon the only possible foreseen ground, that of its *cost*.

If any State in the American Union is so small, or so poor, as to gravely weigh the cost against public honor and duty, it should consider how it could meet its obligation, by obtaining the aid of a sister State by suitable legislation.

A select committee of the Medico-Legal Society has been considering the subject of recommendations I had the honor to make to that body, and I ask the co-operation of the national association of the chemists of America in a movement so intimately connected with the honor and dignity of the profession you represent and so closely connected with the rights and protection of the people of this country.

NOTE.—The report of the majority of the Select Committee of the Medico-Legal Society, made a report favoring such an officer in the nation and also in the several states, at the February meeting of 1891, which was unanimously adopted by the Society at that session.—EDITOR.

*MECHANICAL RESTRAINT OF THE INSANE.**

By P. Bryce, M. D.
Supt. Insane Asylum Tuscaloosa, Ala.

It was determined ten years ago to introduce into this Hospital, if practicable, the system of absolute non-restraint which had been so successfully practiced in Great Britain under the auspices of Dr. Connolly and his followers. The idea embraced in this system is that the insane, in public hospitals, can be controlled and treated more humanely, and with better results, without the use of straight-jackets, camisoles, muffs, wristlets, restraining-chairs, bed-straps, crib-bedsteds, or any other of the various appliances commonly known as restraining apparatus. How this experiment has succeeded, my annual reports for the last ten years will amply testify. During this long period, with a household averaging nearly a thousand patients, there has been no resort whatever to any species of mechanical restraint, for either surgical or other purposes. Not a vestige of restraining apparatus of any kind is to be found about the premises, nor has there occurred a single case in the wards of the Hospital, during this long period, which seemed to justify or require its use. Instances have occasionally occurred which, to others, might have appeared to call for such applications ; but in no single case have they failed in our hands to yield to milder measures. I had a patient a short while ago who persisted in stuffing towels and articles of bedding and clothing down his throat with a view to self-destruction. I was appre-

* From Biennial Report for years 1889 and 1890.

hensive at first that this case, which was the worst we have ever had to deal with, would prove intractable, and that we might finally have to resort to extreme measures; but a few days of constant watching, by day and night, entirely dispelled this fear, and relieved our patient of his self destructive proclivities.

I take the greater pleasure in recording each year the unbroken success that has followed the practice of this system of non-restraint in the Alabama Insane Hospital for the reason that there has arisen of late, both in this country and abroad, a decided reaction against the extreme views of Dr. Connolly and his followers. Many of our ablest and most experienced physicians, in charge of the insane, hold that it is possible to carry the non-restraint principle too far, and at too great a cost. The majority of our American superintendents have openly expressed and advocated these views; and under the leadership of such eminent men as Doctors Savage and Yellowlees, of Great Britain, many of our *confrères* across the water, we are sorry to say, are rapidly joining the ranks of the reactionists.

The evil to be feared with regard to the employment of even the minimum amount of mechanical restraint is that its legitimate and judicious use at first, will almost surely lead to its abuse in the end. Human judgment, under the most favorable conditions, is often unreliable and erring; but more especially is this the case when dealing with a problem so variable and complex as the one we are now considering. Under this milder system of government, which, for ten consecutive years, has been in operation in this hospital, we have been rewarded with the most gratifying success. Nothing has occurred during that comparatively long period of time to change our opinions as to its safety and utility. On the

contrary, as I have reported on so many previous occasions, the experience of each successive year serves only the more surely to strengthen and confirm these impressions. The comparative order and quiet that prevail among our eleven hundred patients, so evident to every one who visits the hospital; the industry, cheerfulness, and spirit of contentment which are everywhere apparent; and the absence of all complaints of ill treatment or neglect of any kind, as well as the universal feeling of confidence and respect evinced by both officers and nurses, are some of the fruits of this system which we would not willingly forego. We are therefore not prepared to abandon it, nor to break our long and honorable record by a hasty or uncalled for resort to manual restraint.

*LUNACY, REAL AND FICTITIOUS, AND ITS TREATMENT.**

By Albert Bach, Esq., of the New York Bar.

The virtue of to-day is in reality essentially social and humanitarian in its character. The motor forces of our moral machinery are philosophy, reason and logic, all, however, regulated by sympathy in order that they may exercise themselves in a social direction, for the "ism" of to-day is pre-eminently Socialism. It has been well said that according as society advances in organization, the social virtues will be cultivated to the exclusion of all that is ascetic. As man awakens to the necessity of co-operation in life's labor, he will find that to live our lives well we must make society our boon companion. The "Socratic Philosophy" correctly considers man as a naturally sympathetic and social animal. "He has no doubt strong, self-preserving, self-asserting and self-advancing instincts which, if left without counteraction, would naturally lead to isolation or mutual hostility and ultimate extermination. But these instances of isolated individualism are met by yet stronger instincts of sympathy, love and fellowship, in the ascendency of which the true humanity of man, as distinguished from tigerhood and spiderhood, consists."

In a world like ours, at the present day, that life is judged well spent which adds to its acknowledgment of the cause of life the fulfillment of life's best purposes. The object of life is every day proving itself to be the

* Read before the Medico-Legal Society, on Feb. 11th, 1891.

advancement of humanity by the exercise of sympathy, charity and love. The purpose of life is the performance of duty. The most imperative duties are the knowledge of self founded on the just estimation of others, and the exercise of practical reason regulated by sympathy in the recognition and realization of truth, of right, for right is truth governed by reason, and the grand rule of human conduct. Reason, we say, should always be regulated by sympathy, for fellowship is our creed, and cold, stern reason unmodified by the warm and softening influence of sympathy, would never advance social interests. Men of great intellectual capacity often are deficient in the finer sentiments and instincts that stir heroic breasts, and fail to recognize in others what is foreign to their own natures. While firm in the strictness of the truth of their beliefs, judged by their egotistical standard of self, they might as well be dead, types as they are of selfish skepticism. People now live for each other. The *sumum bonum* of our existence, of our morality, is the welfare of mankind, the creation of one family united by bonds of love. Most pitiable is he who, in his incapacity to realize such thoughts and feelings as differ from his own, withdraws from society wrapped in a shroud of selfishness and cold indifference to the affairs of humanity. What lasting monuments of benevolence had been his had the influence of social education interposed its equitable sway to awaken a yet dormant imagination, and through it, the sympathetic conception of the interests of mankind. To truly live and have well lived, is to advance and have advanced the interests and well-being of individuals, of humanity at large. They who practically evince the successful result of their efforts to thus bless mankind, or who struggle toward that goal, we call the

living living. They whose egotism blinds them to the preception of all else but self and its personal wants and gratifications, we name the dead living. They who have gone to man's final resting place have left behind them imperishable monuments of philanthropic deeds we designate the living dead; for while their forms decay, their memories are immortal. Humanity is the rock of our hope or despair. Do we but beautify, adorn, enoble it with fruits of truth, and truth yielding plants with rare exotics of pure sympathy, charity and love, behold in its vicinity we find a sweet haven for our earthly existence, and in the enjoyment of the reciprocal blessings it bestows on us and we on it, we live while we live. When to the dust, dust is returned, those very plants set by our hand, still green and fresh, forever stand eternal signs of the good we wrought, and thus, though dead, we live. As men are known by what they do or say and by that only, he who does and says nothing, who is indifferent to all that concerns his kind, who adopts *laissez-aller* doctrines, is dead while he lives. To truly live while we live is to be known and dear to all, or some at least, for the good we do on earth; to live when we are dead is to be known for the good we did while living. Whatever tends to darken our eyes to the existence of those bonds between man and man which makes us all kin, kills us while we live, and in the gloom of solitude unthought of we exist, unmourned we die. "Love thyself, think of thyself only," whispers the evil spirit of narrow-minded beings, and oft they do and then are dead. To think of humanity, to work for humanity, to accomplish for humanity is the source, the cause of life eternal. Love thy neighbor as thyself, do unto thy neighbor as thou wouldst have thy neighbor do unto thee, are by-words of to-day.

Are the sentiments which I have just expressed the result of delusion, have I presented to you the vagaries of a distorted mind, is mine an exaggerated optimism, am I to awaken from a blissful dream to an awful reality? A contemplation of recent events might justifiably change my opinion of my faith in the humanity of this age, were I not convinced that it requires but an appeal to our actual selves to correct the error of our ways. Thank God, that man's infidelity to man is the exception to the rule of conduct, yet so disastrous are the workings of that exception that I am impelled to enter upon a crusade against it, and to earnestly request you to join me in the good work. If my voice have not sufficient influence over you, let the cries of despair, the sobs of broken hearts, and the moans of physical weakness supply the deficiency.

I stand before you to-night to plead a cause in which my whole soul is enlisted,—the cause of personal liberty.

This society has never entered upon the performance of a nobler work, a more urgent duty, than that in behalf of which I am about to ask its aid, to wit: the prevention of cruelty to our sane and insane brethren. I am not given to sentimental gush, and in my citation of the wrongs which are perpetrated through defective lunacy laws and the abuses which exist under the administration of those laws, I shall endeavor to be dispassionate, fair and just. I know full well how easy it is to find fault and to be carried away by prejudice, engendered of enthusiasm, but I pledge myself to a calm and deliberate presentation of facts and suggestions and allow you to be the judges of the reasonableness of my contention.

The greatest power given by man to man is the right to control human liberty; the abuse of that power can-

not be too severely punished. That it is abused through the wrongful and wicked use of legal forms, will not be disputed. It is certainly humane to protect the person and property of one mentally or physically incapable of doing so for himself, but it is intolerable that undue advantage should be taken of a fellow being's affliction.

I shall lay before you the experience of several highly intelligent citizens, wrongfully incarcerated in insane asylums, which to my mind furnishes strong proof of maltreatment, and of outrage that should at once be stopped.

There is necessity for immediate reform both in our lunacy laws and their administration. And the assertion of this necessity is in no way met by the reply that said laws and their administration might be worse than they at present are. The progress of science should lead to the amelioration of the condition of suffering mortals, and the disregard of the revelations of advanced thought should be punished as a crime. With a great mass of men, crime consists in being found out, and personal convenience and a sense of security against discovery are balm for qualms of conscience.

On February 5th, 1891, the following question in one of the daily newspapers of this city, heads an article descriptive of what is therein very properly termed "A Most Remarkable Case?" "Can a man of wealth, sound in mind and body, be suddenly declared insane, immured in an asylum and stripped of his money?" In this enlightened age the mere putting of such a question should be considered as an insult to one's intelligence, but when the narrative of the article headed by such a question shows that the answer to it is an affirmative one, well may we raise our hands and voices in righteous indignation and exclaim, "*O, tempora! O, mores!*"

The case, briefly stated, was as follows: Mr. Peter Kehr, a wealthy and prominent citizen of this city, was on the 28th day of January, 1891, under the sworn testimony of two reputable physicians, neither of whom, as Mr. Kehr states, ever saw him, adjudged insane, and a commitment for his restraint was granted. The commitment was not served on Mr. Kehr, nor was he incarcerated, and fortunately for him the matter having in the most unexpected way been called to to his attention through a mere suggestion of some friends who casually met him at a political meeting, he natually was astounded ; and calling in the assistance of lawyers and said friends, this sane gentleman succeeded satisfactorily in proving to the Honorable Judge, who regularly and legally committed him as a lunatic, that he was in every way *compos mentis*, and the worthy Judge seeing that an evident mistake had been made, forthwith revoked his order of committment, and signed another to that effect. Is it not terrible to contemplate such a possibility, is it necessary to dilate on the enormity of such a proceeding. Is it not in every way probable that if the learned Judge had had the opportunity of examining Mr. Kehr before signing the order of commitment, he never would have signed it, the fact that after examining it he set it aside is an answer to that question. There are strong intimations of ulterior motives of a pecuniary character as factors in thus attempting to deprive Mr. Kehr of liberty, reason and wealth. Be that as it may, we certainly have evidence in this case of a man being adjudged a lunatic and ordered incarcerated without the magistrate interviewing him at all, and a few days afterwards upon an interview with that same magistrate, being declared of perfectly sound mind. This would be farcical if not fraught with ominous

warning of the dangerous condition of our laws on this subject. The past has revealed numberless cases of fictitious manufactured lunatics, the presto change sane to insane man, whose brains are perfectly balanced except when weighed in the scales of cupidity and villainy. While the mills of the gods have worked to a purpose in these matters in other countries of the world, to our shame be it said, that it is within the bounds of every day experience here, that a rational being may be transformed into an irrational one on the mere dictum of venally interested parties. Justice is indeed blindfolded and the light of liberty is flickering.

But if the Kehr case may be called most remarkable, how much more remarkable is the case of Mr. Jesse Moreley, of Haverhill, New Hampshire, who, by reason of an absurd law of that State enacting that all persons "incompetent to manage their affairs shall be adjudged insane," was adjudicated to be a lunatic, although the doctors who examined him, the judge who was forced by the statute to declare him insane, and the guardian who has been appointed, deny that Mr. Moreley is insane. The only thing the matter with him is that he is infirm from old age. The newspaper report of the old gentleman's remarks on the subject is pathetic indeed: "I am willing," he says, "to have some one appointed to look out for my affairs, although I am capable of doing so myself; but to be called crazy is a great wrong to me and untrue, and I resent it as a great injustice." The Revised Statutes of the State of New York contain the following enactment:

Chapter XX, Title 3d, Article 1, Section 1, "No person shall be committed to or confined as a patient in any asylum, public or private, or in any institution, home or retreat for the care and treatment of the insane, except upon the certificate of two physicians under oath, setting forth the insanity of such person; but no person shall be held in confinement in

any such asylum for more than five days, unless within that time such certificate be approved by a Judge or Justice of a Court of Record of the County or District in which the alleged lunatic resides, and said Judge or Justice may institute inquiry and take proof as to any alleged lunacy, before approving or disapproving of such certificate, and said Judge or Justice may in his discretion call a jury in each case to determine the question of lunacy."

Section 2. "It shall not be lawful for any physician to certify to the insanity of any person for the purpose of securing his commitment to an asylum, unless said physican be of reputable character, a graduate of some incorporated medical college, a permanent resident of the State, and shall have been in actual practice of his profession for at least three years. And such qualifications shall be certified to by a Judge of any Court of Record. No certificate of insanity shall be made except after a personal examination of the party alleged to be insane and according to forms prescribed by the State Commissioner of lunacy, and every such certificate shall bear date of not more than ten days prior to such commitment."

In my opinion the above law does not afford adequate security for the protection of personal liberty. A compulsory jury trial, cross-examination, full hearing and representation are the only proper, safe guards for so sacred and inviolable a right. If it be said that laymen know little or nothing about lunacy and are incapable of judging independently of expert testimony, I reply that it is far preferable to leave the determining of such a question, with the aid of expert evidence and careful instruction from a judge, to a common-sensed jury than to allow any star-chamber inquisitors to be the final arbiters of a man's fate. Without desiring to impute bad faith as a rule in adjudications of this character when left to a judge and two doctors, I do say that the possibility of fraudulent practices with a jury trial is much less than under the present system. Many doctors who may be willing to certify to a man's insanity, on a piece of paper, will think twice before committing themselves with an apprehension of close cross-examination as to what they know about insanity in general and the individual's insanity in particular. It is ridiculous to permit a mere tyro of three years' practice to write away one's liberty

and reason. There should be State examiners in lunacy, to act as experts and only the leading alienists should be employed for that purpose, at a salary co-ordinate with their reputation. There should be no undue haste in passing on an individual case. If there be danger of the patient doing himself or others harm, on petition, and after preliminary hearing to be had as speedily as under *habeas corpus*, he could be committed to an asylum for examination only, and such examination should proceed without any unnecessary delay by the State examiners. No business of the Courts should interfere with or take precedence of such a proceeding. Upon the report of the Commissioners, that in their opinion the patient is insane, a jury should be at once impaneled, a lawyer assigned if the party is too poor to employ one, and a trial had. I am a firm believer in the efficacy of cross-examination, and the inalienable right of every body to have it used in his behalf. The present appears to be an age of delusions, and the avidity with which so-called experts certify to a person being the victim of delusions, satisfies me that that particular form of insanity is a very convenient grab net—*faut de mieux*. While recognizing that all lunatics have delusions, I contend that it requires in many cases great intelligence, wide experience, and careful research into the history of the man and his antecedents and the circumstances which have surrounded him, before daring to assert that he has insane delusions. Mandsley says:

"A man is what he is at any period of life, first by virtue of the original qualities which he had received from his ancestors, and secondly by virtue of the modifications which have been effected in his original nature by the influence of education and of the conditions of life." And again, "A human being has four natures, his animal nature, his human nature, his family nature and his individual nature."

With these various natures we should endeavor to

familarize ourselves, so that we may determine the effect of certain physical and mental surroundings on his individuality and thus ascertain whether his thoughts, his ideas are without foundation in fact, or the necessary logical sequence of the effect on his particular mind of a concatenation of circumstances apparently real. Prejudice, jealousy, suspicion, in average form can hardly be called evidences of insanity, and yet by the test applied by some so called experts, they would be delusions and the victims of them fit subjects for a lunatic asylum. If all ordinarily perverted reason were to be the open sesame to insane hospitals, most of our fellow citizens could be driven there instanter. It is very difficult to give a definition of universal application to either sanity or insanity, and, whereas there are certain well known symptoms of departure from what we deem a normal condition of mind, the word normal is itself merely relative, and thus the necessity of familiar acquaintance with the subject's history, and careful discrimination between mental weakness and insanity. Furthermore, I by no means believe that harmless fixed delusions should cause the incarceration of their victims in an asylum. Let us not from a study of morbid conditions become morbid ourselves, or through the infection of mental disorder allow our judgments to be perverted. I often think that the engrossed student of diseases overlooks healthy characteristics to such an extent as to eventually become blind to them, and thus recognizing nothing but disease, he predicates of a mind evidencing some symptoms of weakness, absolute and dangerous derangement. This, of course, should be carefully guarded against, by entrusting the determination of so delicate and difficult a question as whether one is insane, to alienists of the

broadest experience and most profound knowledge of the subject, only.

And now as to the treatment of the poor unfortunate when once they enter that veritable "valley of the shadow of death," the region of insanity.

Inasmuch as the custody and control of one's person by another is of more consequence to him than is the guardianship of his property by another, we must not be surprised to find greater suspicion and closer scrutiny of the conduct of the guardian of our person than that of the guardian of our property. He who acts in a fiduciary capacity should always be ready to render account of his deeds, and court the closest investigation thereof, but past and present experience teaches us that the struggle of insane asylum officials has been to prevent that very investigation, and as a result we naturally suspect delinquincies in management. Agitation of public wrongs always produce benefits and thus we find that the clamors of the champions of humanity's cause have produced great improvement in the present treatment of those confined in asylums, compared to that of the past, but believe me there is every necessity for immediate change in to-day's administration of the affairs of asylums. And this is the matter which I desire particularly to call to your attention, so that some practical work may at once be done to ameliorate the condition of the inmates of such institutions.

With satisfactory proof of maladministration before us we should have the courage of our convictions and without regrad for mere personality, censure and have removed public officials who have been false to their trust.

There can be but two just reasons for confining a person in an asylum: one is to prevent his doing harm to

himself and others; the other is to have his disordered mind properly treated. In this way both the public and the individual are benefited, and the incarceration meets with general approval as a protection to society and a necessary rule of good government. But surely no one will attempt to contend that the purpose of placing a fellow creature in an asylum is to torture him mentally and bodily, to ruin his health, deprive him of his reason and make him die before his time. Yet this is exactly what is being done to-day.

From Lansing, Michigan, comes the report under date of February 1st, 1891, of "Old charges against Michigan Asylum Authorities call for an official investigation." And on this 11th day of February, 1891, the State Legislature of Michigan, will consider the resolution calling for an investigation of alleged abuses in the insane asylum at Kalamazoo. The report goes on to say that:

"The resolution was offered by Mr. Herz, of the Committee on Asylums, and if the statements now in his name be true, the committee will unearth a state of affairs that will shock the whole world.

"Mr. Herz has a desk full of documents bearing on the management of the asylum. Many date back two or three years, but as no changes have been made, all bear upon the present managers of the institution.

"They aver that patients have been starved, beaten, neglected; that in some cases death has resulted from such treatment; that employees have suffered from the harshness of their superiors, and their pay withheld for trivial reasons. Where such forfeited pay went to is one of the questions which the committee will be asked to look into.

"Most of the papers in Mr. Herz's possession are state-

ments from old employees, who, it is needless to say, are no longer connected with the institution.

Oscar Temple, of Kalamazoo, swears that, to the best of his belief, Edward Fowler and Myron Van Buren died of starvation and gross neglect at the asylum.

"Thomas Hazaro swears while he was an attendant, a patient named Alexander E. Edwards, of Grand Haven, was starved for four days.

"H. W. Hakes, an asylum employee in 1887, swore that he knew of Dr. Worchester starving Edward Cable because he refused to do work that was disagreeable to him.

"David Landis, of Kalamazoo, testifies that while he was an attendant, Michael Mulligan was deprived of all his clothing for two weeks and compelled to sleep in a cold room on the bare metallic mattrass without a solitary stitch of clothing on either himself or the bed.

"Then there were numerous charges to the effect that employees have one month's pay held back, and if they are discharged for infraction of the rules they are fined this amount. Mr. Herz says there are other charges of a later date in his possession, which will not yet be made public."

"Come nearer home," you say. Well, I will. In my opinion there should be an official investigation of the insane asylums of the State of New York without the slightest delay.

I have in my possession the testimony of persons who have had practical experience in the treatment of New York State insane asylums, and their narrative would shock the most obtuse. All tell the same story, although examined separately and without receiving from me the slightest intimation of what the others has said. I believe they have told me the truth, and herewith submit

for your consideration the following existing abuses and violations of law :

First—Interception of mail matter, thus depriving the person confined of the opportunity to communicate his real thoughts and complaints to a friend or relative, with the object of obtaining his release or protection against ill-usage.

Second—The excessive use of sedatives or hypodermic injections—ruining the health of patients—and frequently employed purely as a matter of punishment.

Third—No proper classification of patients ; crowding all forms of insanity in the same ward.

Fourth—The transfer to the asylum in groups or parties of sane persons with those in different conditions of insanity.

Fifth—Compelling two or three persons to sleep in one cell or room ; as many as twenty in one small dormitory.

Sixth—Crowding of large numbers in a small dining-room to eat, where there is not sufficient space for one to sit straight, being obliged to sit sideways : having free use of only one arm. Dining-rooms infested with rats and mice ; pantries overrun with cockroaches.

Seventh—Poor food ; although displaying a printed dietary table, which, however, is not observed.

Eighth—Non-separation of healthy patients from those who are diseased.

Ninth—The confinement of the filthy and chronic insane with the sane, clean and quiet insane.

Tenth—Unhealthy sanitary condition of water closets in some of the wards. Absolute insufficiency of accommodations for calls of nature ; some wards where seventy persons are confined do not have separate urinals ; the odors obnoxious and unhealthy.

Eleventh—Rapid and improper bathing ; as many as

sixty to sixty-five persons put through two bath tubs in less than sixty minutes and dried off with dirty sheets taken from the beds, and used on diseased and unhealthy skins and on clean and healthy bodies.

Twelfth—Lack of heat on cold days; some days in winter temperature as low as 40 and 42 degrees in the rooms.

Thirteenth—The compelling of patients to go out in the yard the coldest days in winter improperly clothed and without overcoats; those who are sick being obliged to go out.

Fourteenth—The confinement of innocent people with criminal insane, transferred from Auburn and other prisons.

Fifteenth—Incompetent, ignorant and brutal attendants in the majority. Patients have died from injuries received from keepers, viz: Farrish, Mendlesohn, Roth and others.

Sixteenth—Keepers go on a pass to the city for twenty-four or thirty-six hours; come back drunk; bring in flasks and bottles of liquor, and when drunk, kick and beat the patients. It is a well known fact that patients are given what is called the "health lift," consisting of throwing them up bodily in the air and allowing them to fall down upon the hard floor in any way, striking in different positions.

Seventeenth—The keepers cause patients to receive hypodermic injections and to be transferred from one ward to another (one still worse) as a means of punishment. The doctors being in the main but mere tyros are generally influenced by the reports of the keepers and so the keepers' judgment prevails with the authorities.

Eighteenth—The doctors being, as a rule, young and inexperienced, are without authority to decide as to a

particular patient's case, but have to report to the assistant or second assistant medical superintendent, who are generally so much engaged that weeks and months often elapse without the assistant superintendent or superintendent seeing or talking with the patient, who should have received immediate attention.

Nineteenth—The assistant medical superintendent is too busy with administrative and executive duties to attend solely to medical duties, and as he is the only person who can decide on cases and discharge persons, the patients suffer accordingly.

Twentieth—Special diet for certain weak patients not given to them, but consumed by the attendants.

Twenty-first—False reports given to visitors and friends. Keeping the bad side of affairs concealed, and only the best side shown.

Twenty-second—Keeping people detained in asylum who should be released, as in no way a proper charge against the State being sane or perfectly harmless if victims of delusion.

Twenty-third—Keeping people who belong in county asylums in the State asylums, thus overcrowding State asylums.

Twenty-fourth—Improper examination by the State Commissioner in Lunacy of persons of whom the officials are afraid by reason of what they might relate; the authorities keeping such patients out of the way, or taking them away as soon as they begin to speak to the State Commissioner.

Twenty-fifth—Indecent haste to put those who die in boxes.

Are these abuses of sufficient importance, think you, to warrant action on the part of this society?

Mandsley has forcibly said that

"No physic in the world can touch an insane vanity or suspicion, or pluck from the memory a rooted sorrow, or raze out the written trouble of the brain. If that is to be done, it must be done by the gradual operation of sound moral hygiene and the healing effect of time."

Can it be done, think you, with such surroundings as those I have depicted?

Insufficiency of funds may be an excuse for some of the above abuses, but surely not for mere brutality?

Is this a matter for a shrug of the shoulders, or strenuous effort to remedy an existing evil?

HYPNOTISM AND THE LAW.

By Clark Bell, Esq.
President International Congress of Medical Jurisprudence for 1892.

A large part of the session of the Medico-Legal Society of February, 1891, was given to the discussion of the legal questions which had been formulated by the Standing Committee on Hypnotism, and made the standing order for discussion, viz:

1. Has the sensitive sought the operator, or has the operator used undue influence to gain control of him? 2. Are proper witnesses present? 3. Are possible elements of error eliminated, such as self-deception, simulation and malingering? 4. Is hypnosis a justifiable inquisitorial agent? 5. Do we need a reconstruction of the laws of evidence in view of the perversion—visual and otherwise—created by the trance? 6. Is any revision of the Penal Code desirable in view of these facts? Finally, should there be legal surveillance over private experiments or public exhibitions?

The Eyraud Bompard case, tried at the Paris Cour d'Assizes de la Seine, had attracted the attention of the world, and the sharply-defined lines that marked the divergant schools of Nancy and La Salpetriere, was arousing deep interest in scientific circles, both sides of the Atlantic, which was not greater than the general public interest everywhere manifested by laymen.

Brouardel and the disciples of the schools of La Salpetriere show by their testimony, that they regard hypnotism as a pathological condition, peculiar to hysterical or other nervously indisposed but peculiarly susceptible persons, characterized by the three periods of cataleptic-lethargic sleep and somnambulism, into which the subject could be successively thrown by manipulations or manœuvres of various kinds. That it was, so to say, a diseased state of the subject susceptible to these influ-

ences and conditions which occasionally occurs, but rarely in persons of normal and healthy condition.

The report of the experts, Dr. Brouardel Motet and Gilbert Ballet, in the Bompard case, show this was their view.

The school of Nancy, on the contrary, affirms that nearly every one, is subject to hypnotic influences, naming 90 per cent. of the human race, and that at least 50 per cent. can be placed in the somnambulistic state. They discard the theory that it is a diseased condition, or only felt by the hysterical or weak mentally, but aver that hypnotism is only a manifestation of a natural phenomena.

Prof. Liegeios and his *confrères* regard hypnotism as a psychological condition. Prof. Brouardel and his associates as a pathological state.

This trial does not, therefore, clear the air, of the difficulties of the Medico-Legal inquiry, whether crime can be committed by the suggestion of the hypnotizer, of which the subject is the innocent, and also unconscious actor.

Bouardel believed Bompard responsible. What most interests us now is the inquiry, can crime be thus committed by suggestion?

The exponents of the Nancy School show very clearly that it can. Would Professor Charcot or his disciples say that in case of a veritable subject it could not?

In view of the situation, I sent a copy of the report of the committee to a few eminent men in this country, and have and shall do so to others abroad, to obtain clear and concise responses to such of the legal questions as are asked in the report, and I give herewith some of the responses of which not a few were read at the February meeting, as well as the discussion at that session.

Prof. George Trumbull Ladd, one of our most eminent members, says :

YALE UNIVERSITY, NEW HAVEN, February, '91.

MR. CLARK BELL.

DEAR SIR :—I regret that I cannot be present at the approaching discussion of the "Medico-Legal Aspects of Hypnotism." But I will endeavor to compress into a brief statement some of the opinions which, if present, I should wish to maintain.

In the first place, it seems evident to me that the subject of Hypnotism has not yet reached the stage of evidence and knowledge, which warrants any considerable changes in the civil or criminal laws. The *laws* are generally about the last parts of the social structure which can safely feel the effects of special scientific researches and discoveries. Science must take full possession of hypnotism, as the essential pre-requisite of any considerable changes in the laws. And in advancing the cause of science over the domain of these phenomena, nerve-physiology and psychology should go hand in hand. I believe that professional psychologists generally are very eager to learn all they can from physiology on this subject. I wish I could be equally sure that physiologists and physicians were as eager and willing and docile in their attitude toward the science of psychology.

The law may well—and perhaps at once—take cognizance of the truth that science, and science alone, is the only rightful and judicious controller of this domain. It should, it seems to me, suppress all public exhibition of hypnotic subjects, or general practice of hypnotism by incompetent persons ; it should be ready to interfere on evidence that any citizen is being subjugated by any experimenter for purposes merely of gain or other private ends. The protection of the inmates of public Institutions from injury to health, and other ill consequences, must necessarily be a more difficult matter for the law to take in hand.

Certain crimes committed on hypnotic subjects are, of course, already pretty carefully guarded by legal enactments or by principles of common law. Deeds, notes, gifts, promises and wills made under hypnotic control, whether in hypnotic or post hypnotic states, should in general be considered void ; this, I think, should be the principle, whether such instruments are of a kind likely to be made by the same person uninfluenced by hypnosis, or not. Of course, to determine whether there has been hypnotic control must be a matter of evidence in each case. I do not see then, why we should not have the same necessity for recognizing the value of expert testimony, which arises constantly now in cases of alleged insanity, or " undue influence " of other than hypnotic sort.

I see no objection to the careful guarded examination of witnesses, or of accused persons, by expert and trustworthy hypnotizers—when sanctioned by the Court. If my present view of the phenomena is correct, such an examination could rarely or never be very productive of information unless the person under examination consented to be hypnotized. Evidence thus obtained, however, should be used—it seems to me, only as indicating where legally usable and valid evidence might be obtained,

and not as itself legally usable and valid. In case of a jury trial, such examination should perhaps be before the judges, but not before the jury.

The determination and punishment, where crime is proved to to have been committed under hypnotic influence, is necessariy a very difficult and complicated problem. But when science has done her more perfect work —and that in no very distant future—I cannot see why these should be any more difficult than cases where crime is committed by one alleged to be insane. In both classes of cases we simplify our problem very much, however, if we take what is now known as the "Anthropological" view. As to the responsibility of the individual to the moral law I take what is called the "classical" view. I believe, as most of those holding the anthropological view do not, in the freedom of the will, and in the reality of guilt, as distinguished from the fact of crime. But I am inclined to think more and more, that society should deal with crime solely in a way —on the average and in the long run—best to protect itself and promote its own social welfare.

Suppose, then, that a crime has been committed under hypnotic influence. The law should treat both the criminal who suggests, and the hypnotic subject, the criminal (I do not say the *guilty* person) who receives the suggestion, according to the broadest and most humane sociological principles. Both persons might be—very properly, as it seems to me—deprived of liberty, in such manner as the interests of society dictate. Perhaps the prison for one, and the insane asylum, for the other, would not be inappropriate. Under present conditions, the "punishment" of both might not go farther astray from their respective deserts than is customary with our clumsy human justice so-called.

I am well aware that the extreme case of murder, would prove a very perplexing one. I am not as yet satisfied that such a case is at all likely to occur. But should it occur, it would probably be well nigh impossible to secure the death penalty for either party.

I am well aware, my dear sir, how foolish and premature, much of the little I have written will seem to your committee. I shall be much pleased to learn wisdom on this subject from those wiser than myself.

The one thing on which I most wish to insist is this, that for the present, science alone should possess this field. The first business of the law is to keep out those whose researches are not solely in the interests of science, and so, ultimately, of humanity; its next business is to learn from science whenever the scientific investigators can agree upon in their report.

I am yours respectfully,

GEORGE TRUMBULL LADD.

Prof. Paul Carus, the gifted editor of the *Monist*, says:

CHICAGO, ILL., Jan. 30, 1891.

CLARK BELL, ESQ., President Medico-Legal Society.

DEAR SIR.—Although hypnotism is not a disease in itself, the neurotic conditions that predispose a subject for hypnotization, are of an ominous nature, in so far as they can at any time become the means of depriving that person of his or her self-control, and make him or her an easy tool

for crime under the influence of unscrupulous men. For this reason it should not be allowed that any person should hypnotize except with the subject's consent and also for weighty medical reasons. Nor should unskilled persons be suffered to practice hypnotism. Laymen should as little tamper with psychical experiments as non-physicians should be suffered to practice medicine.

Hypnosis, viz., sleep artificially induced by psychic means, can be used as a valuable therapeutic agent, especially when insomnia is the cause of the disease. As an anæsthetic, however, it is not to be commended. Narcotics are still more efficient and more reliable. Hypnotism should never be employed for cases of confinement (as is done in Parisian clinics), because it stands to reason that it produces a predisposition for hypnosis in the child. The physician has no right to inflict such a blight upon the building life of a man—nor has the mother either—only to free her from an hour of pain. In saying this I do not deny that the experiments of Dr. Luys, who employs hypnotism in case of childbirth, will most likely prove to be of great scientific value.

Concerning the legal aspects which you present, I should say that according to a rational interpretation of our laws, it would be punishable for the operator to seek control of the sensitive subject unless demanded. [In answer to point 1.]

Proper witnesses should be present whenever the slightest doubt in the honesty of the operator can arise. [In answer to point 2.]

Hypnosis is a justifiable inquisitorial agent for finding clues, but it has not the slightest value if considered as evidence [in answer to point 4]; because it is extremely difficult to remove the many sources of error, simulation and also, perhaps most so, of self-deception. [In answer to point 3.]

We need no reconstruction of the laws of evidence. A wise and sufficiently broad application of the present laws will be found to be sufficient. Nor do I mean to have laws passed to enforce protection against malpractice. I trust that our present laws suffice to protct the ignorant against psychical quackery as far as protection is advisable. No new laws are needed—supposing that the judges are competent men who understand how to make the proper application of those laws that prohibit nuisances of a similar kind. [In answer to point 5.)

Concerning the Penal Code, however, I should say [in answer to point 6] that it is highly desirable to revise it according to the scientific maxims which can be derived from the data brought to light by modern psychology, in the sense proposed by modern criminologists. I would not advise treating the criminal with sentimental humanitarianism, but treating crime as a moral disease, to cure it effectually without letting the criminal suffer more than exactly necessary. At present the criminal is sometimes punished more severely than he deserves, and crime is preserved. Our penal institutions should become asylums, not for penal purposes, but for moral cures, and also for separating injurious elements from society.

Respectfully yours,

P. CARUS.

Prof. William James, of Cambridge, says:

CAMBRIDGE, MASS., January 23, 1891.

CLARK BELL, ESQ.

DEAR SIR:—I appreciate the compliment which you pay me in asking for a letter to be read at the discussion of hypnotism before the Medico-Legal Society.

My experience has been too small to justify me in having any personal opinion about criminal suggestion, etc. I entirely reject the notion of using hypnotism inquisitorially, and in my eyes the less legal surveillance there is over private experiments or public exhibitions, the better it will be.

Very truly yours,
WILLIAM JAMES.

Prof. Joseph Jastrow, of the University of Wisconsn says:

MADISON, WIS, February 1, 1891.

CLARK BELL, ESQ., New York:

DEAR SIR:—I take pleasure in saying a few words in answer to your kind invitation. I am glad to see that the subject of Hypnotism is being seriously taken up amongst us. In so doing we should profit by the experience of our foreign brethren and avoid the dangers into which they have in some part fallen. Should the result of your deliberations be the suggestion of some legislation restricting the practise of hypnotism I trust it will be framed broadly enough to include its use by professional psychologists and others of scientific standing. To limit it to physicians solely, seems to me to be going too far; there is nothing in the M. D. degree that will prevent its abuse, nor does such abuse follow from the absence of such a degree. The prime object is to prevent public exhibitions that count only upon idle curiosity for their support, and dilletante meddling with dangerous practices, and to restrict the practice of Hypnotism to scientific purposes; amongst these I count as highly important the deductions which the modern students of Experimental Psychologists have drawn from hypnotic experiments with reference to normal mental processes,

Of the points stated in your report, I would take exception only to the third, in which you state the position of the Paris school. It seems to me from my reading, from my personal experience with subjects and from what I saw at Paris and at Nancy, that the Nancy view which regards these three stages as accidental and insignificant variations of what is really a very variable condition, (the exact nature of which we do not clearly understand), is the true one. Lethargy, somnambulism and catalepsy appear as the results of suggestion (conscious or unconscious) and the precise distinctions between them are rarely obtainable.

The legal aspects of the subjects are certainly serious, and the experiments of Liegeios open out alarming possibilities. How far these facts should influnce legislation is, of course, a most delicate inquiry upon which I can have no professional opinion. When we consider the variance

between medical science and legal practice upon the question of insanity and responsibility, we cannot be very sanguine of the acceptance by the Law of the fruits of scientific investigation.

I shall follow with interest, the progress of your deliberations, and trust you will find it possible to keep me informed of your doings.

Very truly yours,

JOSEPH JASTROW.

Dr. Charles H. Hughes, Professor of Nervous Diseases and Psychiatry, Marion-Sims College of Medicine, and editor of the *Alienist and Neurologist*, St. Louis, says:

St. Louis, Mo., January 20, 1891.

CLARK BELL, ESQ.

I am, in the main, in accord with the report of the Committee. My views upon one aspect of this interesting subject have been already expressed in a recent editorial in the *Alienist and Neurologist* referring to the Eyraud Bompard case, which permit me to here quote.

"This trial, in its psychological aspect, is the most remarkable of modern times. No plea since the days of Cotton Mather, when witchcraft occupied the public mind and theories of obsession were offered in extenuation of reputed crimes, has possessed so much interest to students of psychology and psychiatry. The names of the medical experts appearing as witnesses on both sides of the case are those of men distinguished for their contributions to science and their studious research. Both Professor Liegeois and Professor Brouardel, the first testifying in favor of hypnotic influence, and the second controverting it, are eminent in the medical profession of France. The hypnotic school of Nancy is justly renowned, and the conclusion of Professor Liegeoise, a pupil of Bernheim, that Gabrielle Rompard was a hypnotic subject, carries with it the weight of an authority respected wherever hypnotism is studied and understood. But Charcot and Brouardel are likewise at least fully as eminent.

There seems no reason to doubt that the girl was susceptible of mesmeric influence, and more or less under the dominion of Eyraud, who was, at least the leading agent in the murder. Whether Bompard was a willing or unwilling subject does not appear from the testimony as transmitted over the cable. The girl's previous life, however, her early history of evil habits and neglected education, requiring unusual restraints and coercions, as set forth in the address of the Procurator-General, would indicate that she was an apt and consenting accessory to the crime.

The condition of hypnotic criminal suggestion, is a subject yet to be elucidated by science and before the courts. Notwithstanding the uncertainty which invests this case, great crimes may be committed under hypnotic suggestion This possibility has been demonstrated by Mesmer and his pupils, by Charcot and Bernheim, but before any of these, with the exception of Mesmer, the previous experiments of Braid, the Manchester surgeon, also show its possibility. There is no reason to doubt, from what we know of the possibilities of Braidism, or hypnotic suggestion, that crimes as well as the cure of diseases may be accomplished through its influence.

But crime under the influence of hypnotic suggestion, would be what is implied in the expression—an act, every step of which would be suggested by the hypnotizer to the hypnotized. If all the steps necessary to the accomplishment of a crime are anticipated by the hypnotizing agent having a criminal intent, the subject would doubtless carry out minutely

all the suggested details; but the intervention of any circumstance or eventuality not reckoned upon by the hypnotizer in planning the execution would undoubtedly upset entirely its voluntary execution.

The difficulty in the way of accomplishing crime under hypnotic influence would be in the operator's failing to anticipate every possible resistance, and providing for it by suggestion. It is owing to this fact—and it is fortunate it exists—that crimes under hypnotic influence can very seldom occur. To illustrate: A villainous hypnotizer with murderous intent suggests to the subject of his influence that at a certain time he shall proceed to a certain house where he will find his proposed victim lying in a certain room, in a certain bed and in a certain position. The successive steps of this crime are all carried out by the subject, but the victim does not happen to be at the place suggested. The individual acting under suggestive control can do no more in the accomplishment of this intended crime except he awakens from his hypnotic trance and completes the act under the impulse of his own normal volition. This fact, then, would render the perpetration of crime under hypnotic suggestion ordinarily impossible. The subject, acting hypnotically, is liable to encounter in almost every instance unsuggested and unprovided for contingencies.

When the plea of hypnotic influence is advanced in extenuation of crime the presumption from what we know of this phenomenon would be against its entertainment. The scientific and the legal presumption would in such a case, I think, be identical—that is, against the theory of hypnotic irresponsibility. For the reasons here made apparent I think that the startling fears expressed in many quarters as to hypnotic power being generally abused, are groundless, and that while crime may be perpetrated under its influence, the difficulties in the way of its operation are sufficient to hold its abuse in check. Nevertheless, in criminal procedures, as well as in civil cases, courts ought not to lose sight of this possible 'undue mental influence.' Its tendency is to develop a morbid condition of the mind and an unstable state of the psychical centers. This is a substitution of one disease for another, and is profitless in a medical sense. The practice of mesmerism destroys the subject's mental equipoise, renders him more or less abeyant to that of the operator, and obliterates his normal individuality. For this reason, to practice it indiscriminately, is criminal, and should be made so by the law, as it is in many countries."

There are degrees of responsibility in hypnosis dependent upon the circumstance under which the condition is induced or permitted to be induced by the subject, just as there are degrees of criminal responsibility where crime is perpetrated under the dominant impulsion of alcoholic inebriety.

The subject who, knowing his failing and his madness, meditates in calmer and uninfluenced moments a crime and then puts himself in the way of being helpless to resist the impulsion of alcoholic toxhæmia or resistless hypnotic suggestion takes a voluntary initial step in the direction of crime which, in my judgment, should be punishable by law.

In criminal procedure it would seem proper that the law should take cognizance not only of the involuntary condition but of the voluntary steps preceding it and hold the operator and willing subject alike as criminal, though perhaps in varying degree, as principal and accessory before the fact. The first question of the Committee is, therefore, a significant and eminently proper one, and all the others are likewise important.

The subject is many sided. Hypnosis to detect crime should be undoubtedly a justifiable procedure in so far as involuntary self-criminations would be justifiable by law, no further. The facts of visual, auditory and tactile perversion demand, under certain evident conditions, such as we

now have under consideration, a partial revision and reconstruction of Criminal Law, and public exhibitions of hypnotism should be prohibited by law as injurious to the subject and subversive of public health and morals.

I regard hypnosis or somnavolism as I have preferred to call it, as an induced morbid impressibility of the psychical and psychomotor centres of the cerebrum, and as such I consider it a condition of functional cerebral disease, which we are not morally justifiable in inducingor provoking in susceptible persons without good reason.

It is an unnatural functional impressibility of the brain which should neither be oncouraged by science or permitted to be promiscuously or publicly practiced by law.

C. H. HUGHES.

Prof. Archibald Church of Chicago, responds in behalf of the Medico-Legal Society of Chicago, as follows :

167 Dearborn, St., Chicago, February 9th, 1891

Clark Bell, Esq.,; 57 Broadway, New York.

Dear Sir :—Your note of the 31st ult., and the report of your standing committee on Hypnotism has been referred to me by Dr. Doering, as the chairman of a committee of the Chicago Medico-Legal Society, appointed under a resolution adopted at the December meeting, to secure legislation, controling the public and indescriminate employment of the hypnotic state. The resolution mentioned pointed out the moral dangers of hypnotism and its medico-legal bearings with the recommendation that its use be limited, under penilty, to properly qualified medical men and that even then it be never employed except in the presence of other medical men or close friends of the subject. It was specificaly directed against public seances of hypnotism, magnetism, etc. Herewith I hand you a clipping showing what has been done in Cincinnati.

We are having a bill prepared to go before the present session of the State Legislature in furtherance of these ideas.

Very truly yours,

ARCHIBALD CHURCH.

Hypnotism in Cincinnati.

The Common Council of Cincinnati has just passed an ordiance making it a misdemeanor to give hypnotic exhibitions. Dr. J. W. Prendergast, Health Officer of that city, is of the opinion that hypnotism, when applied indiscriminately, is injurious, as it affects the mental health of the subject, and rccommended the enactment of the ordinance. A lecture on hypnotism was refused a license and obliged to leave the city.—*Journal of American Medical Association*, February 7th, '91.

Hon. G. A. Endlich, Editor of the *Criminal Law Magazine*, responds as follows :

Reading, Pa., February, 7th, 1891.

Clark Bell, Esq.,

Dear Sir :—It will not be possible for me to attend the meeting on February 11, as you kindly suggest. Nor do I feel myself sufficiently

clear upon the subject of hypnotism to make what I could say of any value. It is one upon which rash talking is out of place. But I am strongly of the opinion, that, in the present state of our knowledge of it, there ought to be some legal control exercised over experiments and exhibitions in this field.

Thanking you for your article, and hoping to hear from you again, I remain, my dear sir,

Very truly yours,

G. A. ENDLICH.

Chancellor Henry R. Gibson of Tenn., writes:

KNOXVILLE, Tenn., February 2d, 1891.

CLARK BELL, ESQ., New York,

DEAR SIR:—In my investigation of Hypnotism, I have not reached a point of observation from which I have any views.

I would be glad to have all the literature on the subject the Society may be circulating.

Very respectfully,

HENRY R. GIBSON

Ex-Judge John F. Dillon, says:

CLARK BELL, ESQ., 57 Broadway, New York,

MY DEAR MR. BELL:

I have yours of the 2d inst., in relation to the report of the Standing Committee on Hypnotism. It would give me pleasure to comply with your request to send my views in relation to the subject for the symposium, but I do not feel tuat I have made such a study of this question as to give anything that I might say any value whatever. I shall be very glad to learn from others.

Very truly yours,

JOHN F. DILLON.

Ex-Judge T. J. Barnett writes:

FORDHAM HEIGHTS, February, 1891.

MY DEAR MR. BELL:

Perhaps you think that you compliment me when you ask me, as you do, to write on the law side of Hypnotism. But how can I—unless myself suggestively hypnotised by some mystic—when there are no sufficient facts in the case before me? Thus submitted to me on its face, you must go out on demurrer, for want of a sufficient presentation. However, I will talk a little *obiter dicta*.

As poor Mr. Lincoln (dear Mr. Lincoln) said to Horace Greeley about the late war between the North and the South, so say I about what I hear and read, but see not, in any part, wholly proven, on the subject of hypnotism, viz.: "It's a big thing." The thing itself, in some form or other, is as old as tradition, floating ever nebulously in the air, doing much queer work of all sorts, satanic and otherwise. It did a good and a pertinent thing, however, when it materialized the ghost of Hamlet's father when, clad in complete steel, that spirit opened the ponderous doors of

its sepulture, revisited the glimpses of the moon, made night hideous and Hamlet crazy, and wrung from the dazed prince its solution, to his own mind, viz: "There are more things in heaven and earth than are dreamed of in your philosophy," or words to that effect. In other words, Hamlet then, was about where we are now in this quest.

Whatever is against the public morals or the public health is illegal by the Common Law. If, however, this hypnotism has assumed a new phase, demanding special legislation for the protection of its good uses (newly developed), as a medical factor, and against such perversion of this phenomenal power as makes it dangerous and even beastly in unskilled or vile hands, clearly herein is very serious work to do by your Medico-Legal Society.

Medical science and law must go into very close, patient, and diligent companionship herein and *make a case*, as well for the good as for the evil of it, before it will be reasonable to demand for it special legislation. Already "the world is governed too much." For obvious reasons legislation in this regard must be aided by the very essence distilled by medical science before it can intelligently intervene, and every *lawyer* must see this at a glance.

If the devil be (particularly and anomalously) "let loose" at this period, as a prelude to the millenium, doing crime through *unconscious* men by trance suggestion and the like, in order to secure more souls for his pleasant retreat on the Miltonic "burning marl"; if, more than ordinarily he be obcessing certain humanities; playing a new game which befogs M. Ds. and even befogging lawyers; if, juggler-like, the cunning old rebel, in order to peril our souls, is throwing ropes in the air for poor mortals to climb up on, *insisting* that we shall *coil* the ropes *after us* in a mad race *ad astra*, in pursuit of the unorthodox clouds of science rather than the orthodox heaven of faith (just as he tempted the old fabulous chap to attempt to steal fire from the altar of the gods). Well, if this is any part of what is called hypnotism (and here I invite attention from Judge North Davis) in the memorable language of Bill Tweed, "What are you going to do about it?" It is difficult to formulate law on a foundation of clouds. It is only the fair sex (bless them!) who are builded up on such an ever-changing basis (?). But, *nous verrons;* it is always the unexpected that happens, say our gay neighbors.

You already must perceive that I am not about to write my few words very seriously (nor yet even ironically I hope) on so grave a subject. This letter is designed for your festive moments, like a Kings fool at a State banquet. Yet there will be a little of the hypnotic in what herein follows: (The MEDICO-LEGAL JOURNAL won't be hurt at now and then infusion of, "From grave to gay, From lively to severe.")

Let me give an object-lesson or two, to illustrate some really demonstrated good results which have sprung out of hypnotism.

For example: See our genial, suave, gentle, energetic, bright, poetic friend, Citizen George Francis Train. How glorious how full of pluck, spring, and vivacious discourse he is, all who personally know him must even affectionately admit. How comfortable he and his psychyo are hypnosed by peanuts, baked beans, Turkish baths, long fasts, and by little

children in the Madison Square. Mr. Train concedes not only that he is hypnotised, but he goes much further and declares the astounding fact that he is thereby privileged (and guaranteed by his pschyco hyptoniser) to exist in the flesh, on this planet, in vigor and youth, for two centuries yet to come. Surely this is what they call a "crusher"—for what hope has our medical science, with existing lights only, to perform for humanity a feat like this? I say, emphatically, away with a legislation that would interfere with Citizen Train (because of demoniac agency), or with his platonic demon, which is not Satan, but is on the contrary, a benificent cherubic pschyco.

But I have not yet done with Citizen Train and hyponotism. I must call on the eminent Juge Noah Davis, to observe how herein *he* is entangled hypnotically with Citizen Train. The facts as alleged by our friend Train present an interesting cause for possible hypnotic law :

It is an open secret (on all fit occasions Mr. Train avows it; indeed he has said it in the public journals) that the eminent Judge aboved named, many years ago, judicially pronounced the said citizen to be a ("mild") lunatic, in which status,—so far as I have examined the record—the said citizen now remains. Dating from said judgment the said Train's condition, in so far as it regards property, has been and is that of an "irresponsible." He is a ward in chancery. Now, pending this trance condition, defined by the judge, and so adjudicated, to be "mild lunacy," (as Citizen Train" alleges) property of immense value, estimated at millions, has passed out of the Citizen's hands, sold for taxes or on liens during Citizen George's hypnotic trance, which the judge so hazardously affirmed to be mild lunacy (hypotism at that time being an unknown factor.) Query : When the citizen shall waken from his trance, if at any period during the lifetime of Judge Davis, will not the Judge be personally liable to recoup his hypnotee,—by *him* hypnotised by virtue of the adjudication, which put the Citizen into this trance-state? This is a point, sir, and fit for "Contingent Remainders." It is perhaps, however, not very clearly put, but who shall say that it is not hypnotic?

I think it is Bulwer, who somewhere says : "It would be a great thing if the magnetizer could get me out of my *own* skin and into somebody else's!"—What do our specialists,—the noble army of dermatologists —say to *that*, as a possible hypnotic factor in physic? In the comparison with this easy possibility, what do your microscopes, lymphs, caustics, unguents, knives, with which you arm yourselves in the bacilli-microbe-hunt, amount to in the way of treating those persistent, tedious skin diseases? What is even the weight of grafting, in this scale?—feathers to lend! The hypnotic-trance—the *suggestion of a new skin* to the victim,—and presto, the work is done! Think of this Doctors Buckley, Fox, Daniel Lewis, et *al.*, who hunt so skillfully after your insidious quarry in your renowned Skin and Cancer Hospital—wherein you are immortalizing your work, and erecting a monumental charity ; your doors open to all sects, sexes, and nationalities ; and free to such fit ones who cannot pay,—an asylum for incurables, until death shall relieve them ;—a benificence without endownment and wholly dependent on public charity. [I could not resist this episodical tribute to as pure a charity as

the world has seen.] In view of the hypnotic skin change the veriest layman must see the long vista of possibilities opened by the phenomena of hypnotism.

I know very well that Inspector Byrnes and his police will not favor this changing of skin hypnotism; a new skin will hide an old rogue. And the practice of this art, in this way, would be manifestly unfair to the ladies. For, why should my *young* friend K—— run the risk of me (an octogenarian) masquerading through Love's bowers in *his* irresistible skin? And ah! Mr. President, should *thy* skin be stolen! Over such a transformation every Sorosis in this world would be draped in sable.

Hypnotically I shall be with you at your symposium (though far away from you in flesh) whenever and wherever such feasts of soul, and sense and sensuousness may be. The poet Burns (in reality) was drinking vulgar beer and whiskey amidst boors in the ale houses he frequented; but hypnotically he was sipping nectar and imbibing ambrosial thoughts and shaking with the laughter of the gods among just such a set as about you assemble.

In conclusion, as I take off my cap and bells (in which I have played the Fool nearly to my uttermost) let me remind you gravely that it was Amphyction who first taught the Greeks to *mix water* with their wine, in commemoration of which circumstance they erected altars to Bacchus and the nymphs, on which the following epigram was founded. Knowing *your* Latin to be so confoundedly bad I translate it (*non verbum verbo*, however) as thus:

"While heavenly fire consumed the Theban dame
A Naiad caught young Bacchus from the flame
And dipped him burning in her purest lymph;
Still, still he loves the sea-maid's crystal urn;
And when his native fires infuriate burn
He bathes him in the fountain of the nymph."

On second thoughts I refer the original of the above to (*Stat nominis umbra*) our chaste and classic friend K——.

"*Ardentem ex utero Semeles lavere Lyacum*
Naiades, extincto fulminis igne sacri,
Cum nymphis igitur tractabilis et sine nymphi,
Candenti rursus fulmine corripitur."

Faithfully,
T. J. BARNETT.

The following discussion on Hypnotism took place:

MR. MORITZ ELLINGER: *Mr. President*—I feel very much interested in the thoughts expressed here to night. We have to consider solely the legal views of the question. We could not well interfere with the medical part of it, because, in the first place, notwithstanding

many theories have been advanced, hypnotism is, as yet, more of a phenomenon than ever, studied by those who make the subject one of individual and peculiar research. If hypnotism is practiced at all it should be practiced only by those who are competent to study the subject scientifically and otherwise legally. Hypnotism should be applied by physicians for the purpose of endeavoring to effect cures. For mere experimental curiosity it should not be resorted to at all; not even by the physician; because though I agree that hypnotism may not be technically classified under the head of a disease, yet nevertheless the nervous condition of the patient who can be easily hypnotized is not altogether normal, because the normal man and woman cannot be easily hypnotized. How far that can be possible is, from a medical standpoint, very little known, and is more in the realm of conjecture. As far as the legal side is concerned I concur in the wisdom of the Court of Assizes in Paris in the case of Bompard, in declining to recognize hypnotism as a factor in that case. In the present state of our knowledge of the subject the French judges gave the correct opinion. Whether the subject sought the operator, or the operator sought the subject it may be considered mutual, and if there is a criminal responsibility it rests upon both alike and the court should not take any cognizance of it.

As far as public exhibitions are concerned they should be prohibited by law because the medical scientist of a modern city will not make a public exhibition of his skill. He will experiment for the purpose of bringing to light all the knowledge he has gained. Those people who make public exhibitions for the purpose of amusing the public and filling their pockets should be prohibited from doing so, for it is a dangerous practice, cer-

tainly exceedingly dangerous for those experimented upon. So far as the evidence in court is concerned, the person who claims to have acted under hypnotic influences would come under the same head as the one who claims to have acted under the influence of lunacy. Simply he did not act on his own nature or free will, he was therefore irresponsible for committing an act which the court considered a crime; whether the influence was violent that the criminal was subjected to or that he had a diseased mind will make very little difference if such a plea were advanced in court. I think we have not advanced far enough in the knowledge of the science for that, and if a person put forth such a plea and be examined for his mental condition the examination should be done by scientific persons. But I do not see that any law, so far as the court is concerned, is necessary. I do not think we are in a condition at present to pass different laws in regard to that special phase of crime. Prohibit public exhibitions except by a student who makes it a study, and in that case only by men who are qualified to make these experiments. Experiments from curiosity or other motives should be prohibited, for great danger may be experienced by persons operated upon who may be in a perfectly normal condition and may be put practically into a condition which would not be normal.

IS HYPNOSIS A JUSTIFIABLE SUBJECT OF INQUIRY?

This is the pivotal question among those proposed. To answer it affirmatively would be to endorse hypnotic agency in general; while a negative answer involves a condemnation of hypnotism not only for inquisitiorial purposes, but for most other uses for which it may be employed. I would, therefore, preface an answer to the

question by a brief consideration of the advantages to humanity involved in the use of hypnotism.

The advantages claimed are (1) psychological. Here the claim is well founded. To the psychologist and the alienist the demonstration of uniform relations between mental phenomena and bodily conditions is important. Experiments in hypnotism certainly seems to promise to bring the mysterious processes whereby sensations are converted into ideas, into a realm where they may be scientifically examined. (When we see the face of the cataleptic assume a frown on his being made to double his fist as for a blow, and directly afterwards a smile if his fingers are placed to his lips as in the act to throw a kiss, we seem on the threshold of a revelation of some mechanical law affecting the reactions of body and mind.) The phenomena of hypnotism is donbtless a legitimate object of scientific investigation, and hypnotism a justifiable agent, employed for ends tending to increase human knowledge and power.

Advantages are also claimed (2) for hypnotism as a moral and educational agent. It is said that the depraved have had the habitual current of thought turned away from things vile by the influence of suggestions. Such cases of purely subjective reformation have interest but no exceptional value, as similar reformations are constantly and increasingly occurring through enlightened religious, educational, and penal agencies, while these few and somewhat dubious cases of reform by suggestion are overwhelmed by the numerous instances of hypnotics coerced into acts and emotions the reverse of elevating.

At the present time the records of hypnotism do not justify its use as an agent for education or moral reform, for the supreme maxium of education is, "Strengthen

good habits by accustoming the will to act promptly, and strengthen the will by perpetual repetitions of choices ;" or, from the physiological side, "Resist instability of nerve structure." Hypnotism undermines each and all these methods by supplanting the individual will through which alone a permanent modification of character is possible, in order to make place for the domination of another's personality.

Advantages are claimed (3) for hypnotism as a thera peutic agent. We must speak guardedly here, for the relief of human suffering is an end which appeals to the medical practitioners in a way calculated to hold in abeyance any objections offered to measures proposed for such relief.

Of the causes reported by the schools of Nancy and La Salpêtriere, an immense majority are records of perverted or idiotic behavior and feeling on the part of hypnotic sensitives.

A small proportion are 'cures.' These hynotic cures, effected by exciting in the patient an expectation a conviction of cure, unparalleled by the cures of faith healer's, "Christian Scientists," and the like, who also operate by arousing an expectation of relief. The physician, also depends largely on expectation of cure for his success. But the expectancy encouraged and relied upon by the physician, differs in its nature from that aroused by the hypnotic or the empiric, in that it rests not upon a more unreasoning emotion, but upon a rational confidence on the part of the patient, that the physician's knowledge of the healing art and his wisdom in applying that knowledge, will accomplish a cure. That is, the expected result (a cure) depends in the patient's mind, upon a sufficient and intelligible cause (the physician's skill). Or if in certain cases the confidence of

the patient is of a purely emotional and unreasoning nature, then as in the case of the empiric or the hypnotist, the physician's cure is effected at the expense of the mental integrity of the patient, for by all known laws of mind and body, repeated submission to influence uncontroled by the reason and the judgment, tend to discourage self-possession, to impair self-control, and to increase nerve instability.

Admitting, therefore, the possibility of hypnotic "cures" their result would be toward mental unsoundness and the possible transmission to posterity of inherited weaknesses and perversions. In hypnotic patients we should have the origin of another defective class; through them we should manufacture new forms of idiocy and alienation. For these general reasons I would offer a negative answer to the question, "Is hypnotism justifiable as an inquisitiorial agent?"

In the case of the woman Bompard, tried for the murder of Gouffi, in Paris, the employment of hypnotism as an inquisitiorial agent, was denied by the Government, M. Liegeois asserted that if this woman was hypnotized she would give an accurate account of the manner in in which it was perpertrated. The proposal was rejected by the Government on the grounds "that the prisoner was a liar * * * that her mendacity would prevail even in the hypnotic state, and that shamming could not be detected."

Apart from the general disadvantages of the use of hypnotism, the evidence does not warrant the belief at this time that the testimony of the hypnotic as to a committed crime can be accepted as evidence by which legal justice could be administered. The French Procureur Général on the occasion of the trial referred to, said: The consequence of that doctrine (inquisitorial hypnotism),

would be that there would be no longer any morality or any conscience. Man would not be distinguishable from the brute creation; he would disappear in the anarchy of unpunished crimes."

The wave of interest in the subject of hypnotism at the present moment resembles waves of interest in other occult influences, such as possession by devils or witchcraft, mesmerism, spiritualism, etc., which have from time to time flowed into the current of human thought, and have ebbed again into the great ocean whence they came leaving no permanent additions to human knowledge or power to mark their track.

Mr. Wilson McDonald: *Mr. President*—It has been nearly fifty years since I first witnessed experiments in mesmerism and independent clairvoyance. Up to the present time I have not known or heard of a case which resulted fatally or even injuriously to either a subject or a patient. But, on the contrary, I have known a large number of cases where pain has been instantly removed, patients cured, surgical operations performed without pain, lost articles found and restored, business complications adjusted, warnings of disasters that were to come foretold, and, in many instances, good and permanent results experienced by persons who had been mesmerized. The proposition, therefore, to enact laws in the State of New York to prevent mesmeric experiments or place them exclusively in the hands of physicians is not only unwise but absurd and shows conclusively, to my mind at least, that the proposers of such a course, regarding this interesting phenomena, know little or nothing about it. There are no facts showing that physicians are any more capable of investigating the phenomena than any other class of citizens. The ability to mesmerize or demesmerize a subject depends more of

the physical, mental and nervous organization of the mesmerizer than it does on the profession which he may follow.

The laws that seem to control what has lately been called the hypnotic condition are as yet but little known.

I am unable to understand why and by what authority the word hypnotism has been substituted for the word mesmerism. This latter word has been in use for an hundred years and was always clearly understood. Was it because the term was an unpopular one ; or was the word hypnotism substituted as a sort of shield to investigation against popular and ignorant clamor? Be this as it may, it was only after nearly a half century of discussion and contention by the "Forty immortals" that the main facts of mesmerism and clairvoyance were adopted by the French Academy. This goes to show, to some extent, that which has often been claimed, *id est*. That scientists have generally been the first to oppose nearly all great discoveries and the last to acknowledge them, even after they had been demonstrated !

I hope no law will ever be placed upon our statute books abridging the right of honest investigation of either known or unknown laws of nature.

Dr. Henry S. Drayton: I would simply remark, in response to your naming me, Mr. President, that I am inclined to take similar ground with Mr. Wilson MacDonald, although I should refrain from being quite so radical in terms. In considering this subject from a legal point of view, it is necessary to be sure first of its scientific grounds, and so to have provided a definite premise or proposition that would give a fair and logical synopsis of the subject. As the fact is, we have yet to find in any of the discussions a definite account of what hypnotism is and feel warranted in the claim that sci-

entific men whether of the legal or medical school, are not fully qualified for considering the subject. I have read the views of Professor Heidenhiem, Dr. Bernheim, and of Professor James, of Harvard, and find that they hold very different opinions, and it is found that all those who have taken up hypnotism and studied it carefully are, as a rule, frank in acknowledging that it presents phenomena involving much obscurity. I am inclined to take the ground, with Dr. Thwing, that hypnotism *per se* is not injurious as a mental experience, and speaking as one who has employed hypnotism medically and experimentally I do not look upon it as a phenomena so abnormal as to lead to injurious effects—unless improperly employed. I should regard hypnotism as any other extraordinary thing should be regarded, as a matter to be investigated, and its merits, whatever they may be, should receive due appreciation. In one of the English reviews an article was published recently in which the writer discusses the legal and moral aspects of the subject we are now interested in. He puts it that the law should not intervene to prohibit experiments in this regard any more than it should prohibit experiments by competent persons in vivisection. Discrimination should be exercised in this matter, and any step taken by judicial authority should be the result of deliberate and intelligent consideration of the whole subject.

Mr. Julian Hawthorne: *Mr. President*—I came here to-night with the hope of adding to my professional views. My position is a little difficult. I suppose it is something new in the Medico-Legal Society to be addressed by a person whose ignorance of law is only exceeded by his ignorance of medicine. It is the method of poets and scholars that they should be true to their types and meet these sudden demands upon them.

It may be that even science is not yet fully conversant with the phenomena, and where ignorant men might not hesitate, scientific men would fear to enter, and it would thus deter them from giving forth their views. I might take up the literary part of the matter, but to do that I should be obliged to rehearse the stories I have written or give away the stories I have yet to write. The truth is, my chief embarrassment arises from the fact of having nothing of consequence to say. I find my individual opinions so conflicting and so contrary in themselves that it is difficult to adopt a decided line. I think I shall, with your permission, consider some of those conclusions which your committee regarded as established facts which so frequently happen. I am unacquainted with the steps by which this decision was reached, but I am inclined to think that hypnotism is as much affected by something transferred from the operator as by anything produced by or from the subject. No man can meet another man's thoughts; the thoughts that are transcribed by himself, without something emanating from it, some mutual influence which continues as long as though made by association. The influence used by the hypnotizer on his subject is something of that kind. It is perfectly true that the Hypnotized person may hypnotize himself. That opens an interesting view of the subject which five minutes is fully inadequate to discuss. You all know the case of the woman, who had three hypnotic states, the deepest was the first, the second was that of a stupid peasant woman; the third an hysterical, lying, scheming person, who realized enough of the hypnotic state to try and hide the fact that her normal state was controlled by it. The latter trait being that of a person of strong character.

It leads to the fact that hypnotism is not natural, as Hiedenheim supposes, but it is a metamorphose of most of the intellectual faculties. The great orator who gets up to make a speech and forgets his *ego* is hypnotized, especially when he is at his best. Let an inexperienced after dinner speaker rise before a company to speak. The moment he gets on his feet he encounters his *ego*, and being unable to control it, he is at once plunged into mental misery and his speech is a failure. The great poets and actors are self-hypnotized, and in their hypnotic state liberate their higher powers. The great Henry Clay had a story told about him when he once started to speak, and when in the full tide of his oratory forgot himself, and nearly always sat down completely exhausted. So one night when he was about to speak he told a friend to stop him after five minutes. The friend allowed him to speak ten, then pulled his coat tails, but Clay paid no attention. Then after fifteen minutes he stuck a pin into him, and continued to do so at intervals for an hour and a half, when Clay sat down utterly exhausted and completely oblivious to what his friend had been doing. He said, "Have I not spoken more than five minutes?" His friend said, "You have been speaking for an hour and a half." "Why did you not stop me?" Then his friend told him what he had done.

I wish to say, in regard to the actual questions which are asked in the report to the Society, I should be entirely opposed to any legal interference with hypnotism or its investigation. If I were a dictator I should insist that hypnotism should be practiced in every family by all the members at certain times each day for one year and at the end of that period my dictatorship would be

ended and nothing would be heard of hypnotism for the next hundred years.

Dr. Paul Gibier : *Mr. President*—I beg you to pardon my inability to speak the English language. I told you I could not talk on the subject, although I was perfectly willing to come and listen to the interesting communications which are being made but I feel entirely unable to speak on the matter. You have known that I have studied the phenomena of hypnotism with Prof. Charcot in Paris. For my own satisfaction I have studied this science, but I tell you if I had power to prevent it I would not let you know that I have written on this subject, which I consider as a very dangerous and compromising one. At present I indulge only in the field of microbes. The microbes and hypnotism do not seem to be very well acquainted, but perhaps between microbes and hypnotism, the distance is not so long or so far as one would think : when you are promotlng the phenomena of hypnotism you are studying the phenomena of life. Microbes, are so to speak, are the beginning of life. As for the former, I think that if you care for the interest of the individual, it would be wise to prohibit public exhibitions of hypnotism, but if we consider the principle we can lay aside the theory of prohibiting public seances. Out of a thousand experiments one may be injurious and the rest harmless. I know that in Paris, I attended many meetings of mesmerists, hypnotizers and spiritualists, I have seen many poor exhibitions, I have seen also many wonderful effects, and remarkable things done, and in thus allowing public exhibitions we might some day see some interesting development. Thus public exhibitions will become a little more frequent as they are in parts of Europe. The matter is very hard to settle and those

who have indulged in experiments, know how difficult it is to find good hypnotic subjects—I do not feel quite free for personal considerations, to give extended views on this subject, which I have carefully studied—I at present prefer to listen and to learn rather than to advise and to speak on this deep and interesting matter in which I foresee the solution of many a problem of the science of life-past, present and future.

Dr. E. P. THWING: The subject covers a wide continent of thought. Is Hypnosis a neuropathic condition? Does it involve a lack or loss of integrity in cerebral structure or function? Is its proper induction at all perilous to the general nervous system? Does the will become less resolute, or can it be invigorated and mental perversities corrected? Can physical disabilities, as well as neurotic troubles, be alleviated? A multitude of such questions occur to the physician. But when we look at the juridic aspects the field broadens. It is worth our while candidly to canvas them.

At the outset we are confronted by two divergent tendencies, the one leading to exaggeration, the other leading men to belittle, disparage and ignore the matter. Of the former, we have illustrations in recent criminal trials here and in France, where ingenious but happily ineffective efforts have been made to disguise or deny criminal intent by assuming that the accused was irresponsible, because susceptible to psychic control. On the other hand, some intelligent people, including physicians, relegate the facts of Hypnotism to the same category of delusions as Perkins' tractors and the waters of Loudre. A still larger number admit the facts but advise their concealment. Ostrich-like, seeing danger they would bury their brains less they suffer harm, ignore the force lest some one might prevert it. Assuming however freedom, from

these extremes of indocility and exaggeration, what may be considered as fairly settled?

1. That this dreamy state is not necessarily a disease. That neurotic conditions predispose one to it is admitted. But those possessed of the finest minds have yielded and their experiences from the days of Hippocrates till now have been recorded. Dr. William Smith, in his Bible Dictionary says that "many, if not most of those who have left the stamp of their own character on the religious history of mankind, have been liable to pass into this abnormal state."

2. It is equally true that the results need not be harmful. The lamented Dr. George M. Beard, whose experimental acquaintance was so wide and thorough, speaks strongly of the advantages, and under my own observations the most gratifying results have been reached, and unsolicited testimonies have been given as to the value of Hypnosis in general therapeusis and in minor surgery, where not only pain has been abolished, but that prescient fear of pain which equally devitalizes the nervous system.

4. Hallucinations created may be made to continue, for weeks at least afterwards, and so to tyranize subsequent actions. This is one form of emotional insanity frequently seen in common life in what is called infatuation. A continuous subjugation of one's will to another, continuous perversions of moral visual or tactile impressions may unhinge one's faculties. Therefore,

5. Legal supervision of the matter is timely and proper. Recent interdictions by Boards of Health of the performances of traveling operators in this line of business were legitimate. In some cases the Society for protecting animals against cruelty might well have interfered.

6. The use of this condition as an inquisitorial agent is not justifiable. No revision of the Penal Code seems called for at present. These and other points are considered in a paper read before this body, April 10, 1889, which appeared in its Journal, and therefore need no amplification."

These replies, and the replies sent from those close at hand before the February Session, will seek to open the discussion of the legal aspects of Hypnotism, and awake, as I hope, responses from the students of the science in Europe, and indeed in all foreign countries.

My object in thus bringing these eminent scientists to speak on a topic of such public interest at the present time, and which I am surprised to see is mainly outside the medical profession in this country; was to call attention to the labors of our Standing Committee, and to invite views from all students of the science everywhere, and I shall forward this paper to such men of science, as I know take an interest in this study, to elicit their replies to the legal propositions, so forcibly presented in the report, from which I enclose the propositions under discussion.

I quite agree with Prof. Jastrow as to the unwisdom of limiting its use to physicians in any restrictive legislation, and if Prof. Church correctly reproduces the action of the Medico-Legal Society of Chicago, as recommending "that its use be limited under penalty to properly qualified medical men," I could not bring myself to consent to such legislation.

As a rule physicians know next to nothing concerning it, especially in New York City. In Chicago it may be different, but here I would not be able to name more than half a dozen who have investigated it.

Those men of science in this country who have studied it, aside from the well-known names of Beard, W. A. Hammond, Prof. E. P. Thwing, C. H. Hughes, and not half a score in all, are rather Students of Science than Doctors of Medicine.

There is great force in Prof. James's broader vision of the true relation of scientific inquiry to the laws. The legal aspects of the question are upon us. The Bar and the Judiciary are in duty bound to carefully and calmly investigate, and so far as possible define the phenomena, and place its true limitations regarding personal and certainly criminal responsibility.

There is ten-fold more interest and desire for thorough examination in this country among laymen of all classes at the present moment than among medical men in America. This is not likely to remain so. Medical men who once grapple with this question will be its most successful explorers, for the reason that they have greater facilities and, should be more nearly related to that branch of medical science touching on neurological, mental and psychiatrical studies. The lustrous names in science of the French schools to whom I have alluded, and the brilliant galaxy of names upon the staff of la Revue de-l Hypnotisme of Paris, of Hack Tuke in England, of W. W. Ireland, in Scotland of Dr. Norman Kerr, who assails it of Krafft, Ebing and Kornfeld, in Austria, and the men of science in Belgium, Italy, Spain, Germany and the Dutch, Russian and Scandinavian countries now engaged in these studies, make it impossible for men of science in America to ignore it.

If this paper shall have aroused any interest in the problems which the Report of the Committee now presents, I shall feel amply repaid for the space allotted to the topic in the present issue of this JOURNAL.

REPORT OF DELEGATES TO THE INTERNATIONAL ASSOCIATION OF PENAL LAW, HELD AT BERNE, SWITZERLAND, AUGUST, 1890.*

By Dr. Emily Kempin, ex-Secretary Medico-Legal Society.

It is the general belief of outsiders, that the germ of this young association, which, during its two years' existence, has already made astounding progress, must be sought in the doctrines of Lombroso, as laid down in his "*Uomo Delinquente*," and the theories of his followers, the so-called Italian school. This is an error. Anthropology in regard to the criminal had existed before Lombroso's famous book, but the great alienist, in trying to prove that the criminal is born a criminal, and that, therefore, he cannot overcome his hereditary dispositions, has aroused the interest of jurists and others for anthropological investigations. The science of criminal law began from that time to occupy itself more with criminal anthropology than it had ever done before. Inasmuch as the formation of the International Criminal Association is an outgrowth of this generally aroused interest, it may be brought in connection with the Italian school, but it is not more an adherer to the doctrines of that school than it adopts the old penal law systems of the legal theorists. Its propositions form indeed no absolute confession of faith to which adherence in every particular is required, but are rather a statement of the general tendency of the association's work. The aims and principles of this international or-

* Read at October session of Medico-Legal Society, 1890.

ganization, very little known in the United States, are told in the language of the constitution, of which Roland P. Falkner, of Philadelphia, made an admirable translation in the "*Annals of the American Academy of Political and Social Science*," July, 1890. I reproduce here this translation :

"I. The International Criminal Law Association holds that crime and its repression should be considered from the social as well as from the juridical standpoint. It purposes the incorporation of this principal, and the consequences which flow from it, in the science of criminal law and in penal legislation.

II. The association adopts, as the fundamental basis of its labors, the following propositions :

1. The purpose of criminal law is the struggle against crime viewed as a social phenomenon.

2. Penal science and penal legislation should take into consideration the results of anthropological and sociological studies.

3. Punishment is one of the most efficacious means at the disposal of the state in combatting crime. It is not the only means. It should not be seperated from other social remedies, and especially from preventive measures.

4. The distinction between habitual and occasional delinquents is essential in practice as well as in theory, and should be at the base of provisions of the penal law.

5. As the administrations of criminal courts and of prisons pursue the same end, as the significance of the sentence depends upon the mode in which it is carried out, the distinction common in modern law between the repressive organs and the prison organs is irrational and hurtful.

6. Restraint of liberty occupying justly the first

place in our system of punishments, the association devotes special attention to all that concerns the improvement of prisons and allied institutions.

7. With respect to punishments by imprisonments of short duration, the association considers that the substitution for imprisonment of measures of an equivalent efficacy is possible and desirable.

8. With respect to punisnment by imprisonment of long duration, the association holds that the length of the imprisonment should depend not only upon the results obtained by the penitentiary system.

9. With respect to incorrigible, habitual delinquents, the association holds that the penal system should aim at placing such delinquents beyond the possibility of harm for as long a time as possible, and this independently of the gravity of the offence, even when there is merely a repetition of minor offences.

III. The members of the association agree to the fundamental proposition above announced. Members of the association may propose the admission of new members to the executive committee. Such proposal must be in writing. The executive committee decides upon it by a majority vote, without stating the reasons of its decision.

IV. As a general rule one session is held each year. The sessions may, under circumstances, take place at longer intervals. At each session the association designates the times and place of the following sessions.

V. The executive committee determines the order of proceedings, and provides that a basis of discussion shall be prepared by reports. It presents at each session a report of the progress made since the date of the preceding reunion in the penal legislation of the different

countries. It publishes this report and also an abridgment of the minutes of the meeting.

VI. The association elects the members of the executive committee. It provides at each session for the use of such languages as will most facilitate its deliberations. The questions placed upon the order of proceedings of a session are not submitted to a vote. Nevertheless, when two-thirds of all members voting unite in the support of any proposition submitted to the meeting, it is added to the fundamental propositions enumerated in Article II.

VII. The meeting votes by simple majority. Absent members may send in their votes by letter. For every modification of this constitution a majority of two-thirds the members voting is necessary.

VIII. The executive committee is composed of three members, who divide among themselves the duties of president, secretary and treasurer. The committee chooses from its number the president of the general meeting.

IX. The annual dues are fixed at six francs ($1.20). Their collection is the duty of the treasurer."

The first meeting of the association was held at Brussels, 1889. It had then two hundred and fifty, at the second, over five hundred members. It issues a bulletin in French and German, which reports on the work done, and in which, also, the reports of the chief speakers as well as the debates are published. The bulletin will also be issued in the English language as soon as the increase of the number of English-speaking members makes it desirable. Application for membership may be addressed to the below-named officers or to any member of the union. The United States are represented by the following members: Mr. F. R. Brock-

way, superintendent of Elmira Reformatory, New York; Roland P. Falkner, instructor at the University of Pennsylvania; Clark Bell, president of the Med.-Leg. Society, New York; Emily Kempin, lecturer on law at the University of the City of New York. National branches of the union have been formed in almost all countries, to facilitate the work of the international body by discussion of the different topics, and meetings are held previously to the annual congress. Among the members we find the names of the most eminent jurists and scientists of all countries. The business of the association is managed by its officers: Dr. Ad. Prins, Brussels; Dr. A. Van Hamel, Amsterdam, and Dr. Franz von Liszt, Halle, professors of criminal law in the universities of the respective cities. The merit of having founded the union lies principally with Professor von Liszt, who is well known in Europe by his learned treatise on criminal law and other works on penal law topics, and is also the chief editor of the standard German criminal law magazine ("*Zeitschrift fuer die gesammte Strafrechts-wissenschaft*"). The main questions that occupied the attention of the association at the second meeting, held at Berne, Switzerland, in August, 1890, were the treatment of minor and habitual offenders, which had been already criticized as needing reforms at the meeting in Brussels. The association then declared the greatest defect of the present system of treating habitual offenders to be a lack of classification, the uniformity in the treatment of habitual and occasional offenders, and the abuse of short sentences, which permit habitual offenders to return to society without sufficient protection of the latter. The main topic for the second meeting was therefore: How shall the law define incorrigible and habitual offenders, and what

measures shall be recommended against this class of criminals.

The very lively debate of this important subject showed the usefulness of the union. The scientists, representing France, Germany and Russia, stood on so different grounds, that, if the association had no other aim but to give to the leading persons interested in criminal law an opportunity to exchange their ideas, its work would be of the greatest value.

The resolution finally adopted by the association was a compromise of the contradictory views of its members. It reads as follows : "There are offenders for whom, on account of their physical and moral defects, the common reaction of ordinary punisnment is insufficient. To those belong the recidivistes, who must be counted among the degenerated or professional criminals. Special measures must be taken against these persons according to the grade of their depravation and the danger they expose to society."

In regard to juvenile offenders, the association resolved, after a very interesting discussion, that no prosecuting steps shall be taken against children, but criminal prosecution shall be substituted by measures of an exclusive educational character. A child shall not even be punished if it had the capacity of distinguishing between right and wrong.

As the association holds that short imprisonment confirms too often men in criminal conduct, it discussed at its first and second meeting the various substitutes for this punishment.

As one of such means it recommended at the session in Berne, that punishment by imprisonments of short duration can be replaced by sentencing the offender to compulsory work without imprisonment.

Though the birthplace of the international association is Brussels, the evidence of its vitality has been given at the second meeting at Berne.

The interest aroused in all parts of the civilized world for this young body was unusually great, and the increase of the number of members showed that the foundation of such an organization was timely.

But better guarantees than all this outer success, are the earnestness, the love for humanity, connected with the sense of justice, which unite its members to a strong body in the struggle against crime. Indeed, when leaving the hospitable city in which the second meeting was held, and separating from the members of the association, every one of the attendants, though coming from different parts of the globe, felt as leaving long known, dear friends.

There is also neither theoretical fanaticism nor vague idealism to be found among the leaders of the union, but that noble spirit which makes the work of the association, as the president of the Swiss Republic said in his opening address: "The dawn of a reform which will be distinguished in the history of criminal law, and, therefore, also in the history of mankind."

RECENT LEGAL DECISION.

Law of Commitments.

Superior Court–Chambers.—February, 1891. *In re* Peter Kehr.

Application to vacate approval of certificate of medical experts alleging the insanity of the applicant. Charles Steckler for motion.

McAdam, J.—The approval was made according to the act of 1874 (chap. 446), which is a revision of the statutes of the State relating to the care and custody of the insane. Previous to any statute upon the subject, the common law permitted an officer or a private person, without any warrant or authority, to restrain and confine a person disordered in his mind, who seemed disposed to do mischief to himself or others, whenever the restraint was necessary for the safety of the lunatic or the preservation of the public peace (Addison on Torts, 3d Ed., 562 ; In re Jones, 30 How. Pr., at p. 453 ; Keleher v. Putnam, 60 N. H., 30 ; In re Oakes, 8 Mass., L. R. 122 ; Denny v. Tyler, 3 Allen, 225 ; Van Deusen v. Newcomb, 40 Mich., 90). These dangerous individuals are generally taken in charge by the police, and committed by a Police Magistrate to the care of the Commissioners of Charities and Correction for examination as to their sanity. If pronounced sane, they are discharged, or remanded back to the magistrate. If pronounced insane, they are proceeded against summarily under the act of 1874, supra. The restraint upon the insane is to continue only so long as circumstances require. The custody of these unfortunates being matter of public concern, statutes were passed in England for ascertaining their mental condition and imposing necessary restraints

under the supervision of public functionaries (8 and 9 Vict., c. 100, and 16 and 17 Vict., c. 96), and like provisions were enacted in this State (1842, Ch. 135, sec. 22; 2 R. S , 3d Ed., 841), and private asylums were required to obtain licenses from the State Commissioner in Lunacy. The revision made in 1874 provides that no person shall be confined in an asylum for the insane except upon the certificate of two duly qualified physicians, setting forth the insanity of such person. The confinement cannot exceed five days unless within that time the certificate shall be approved by a judge of a court of record of the county in which the alleged lunatic resides. The certificate of the physicians is not a commitment, nor does the approval of the Judge make it a com mitment. The certificate is a mere justification for receiving the patent for examination, and the approval authority for detaining him over five days for curative treatment only. No term of confinement is mentioned in the statute or certificate, and it is the duty of those into whose charge the unfortunate is put to see that the patient is discharged whenever his mental condition justifies his liberation. An act which imposes unreasonable restraints upon the insane is unconstitutional (Pet. of Doyle 40 Alb. L. J. 313). A sane person cannot be legally held under the certificate or approval. They would, at most, furnish evidence only of probable cause. The physicians making the certificate are not judicial officers, but act as experts only, and are liable for misconduct or failure to use the care and skill which their profession implies they will bring to their professional work (Ayres *v.* Russell, 50 Hun, 282; 20 St. R., 323, and see 28 Id., 144). The *ex parte* certificate of the medical men concludes no one (Norris *v.* Seed, 3 Exch. R., at p. 792), for it is nothing more than the written opinion of

experts, which, being sworn to, is regarded as *prima facie* evidence of the insanity of the person named in it. The apparent purpose of the certificate is to protect the citizen by requiring two responsible and reputable physicians to swear to the insanity charged, that the person imprisoned under it may look to them for redress in case the charge proves without foundation (Ayres *v.* Russell, supra, and see Force *v.* Probasco, 34 N. J., 539). The physicians not only risk a pecuniary liability, but their professional reputation.

The statute is silent in regard to the duties of the asylum authorities, but their obligations must be measured by the delicate character of the trust, and in the light of the common law regulating patients in hospitals and other curative establishments (See Look *v.* Choate, 108., Mass., 121; Van Deusen *v.* Newcomb, 40 Mich., 90). It is indeed a responsible position, requiring the exercise of a wise judgment, not only in admitting but in discharging patients, but those who assume the duties must take its responsibilities whatever they may be.

A person confined in an asylum, under the Act of 1874, loses none of his civil rights. He retains title to and control over all property as before, and may, if in a proper state of mind, by will or conveyance, deprive those who caused his imprisonment of any benefit from his estate. This is so because the person has not been adjudged a lunatic "by due process of law," which presupposes an inquiry and a judgment after trial. Obviously, the Act of 1874 was intended to secure proper care and treatment for the insane, and protect third persons from their irresponsible violence (Ayres *v.* Russell, supra). The certificate in this case is made by two responsible and reputable physicians, one of them a celebrated insanity expert, whose judgment is entitled to

great weight. They believe Mr. Kehr is insane. They examined him at the request of his wife, who should be, and no doubt is, deeply interested in his welfare. The certificate being proper in form, received judicial approval. The present application to revoke is founded on three affidavits by reputable friends of Mr. Kehr that his business capacity and reasoning faculties have not been impaired. In addition to this, Mr. Kehr is produced on his own behalf as a living refutation of the fact that he is insane. He admits having been enfeebled by illness, but denies the loss of reason or impairment of mind. The evidence now produced satisfies me that if Mr. Kehr is insane, he is neither dangerous to himself or others, and that he should not be incarcerated without the formality of a trial. For this reason the approval of the certificate will be vacated. Improper motives have not been charged against anyone. Indeed, there has not been room for suspicion, for no wrong could have been accomplished without the active cooperation of the wife, the perjury of the physicians and the corruption of the asylum authorities, and all without the hope or possibility of gain. If the relatives of Mr. Kehr still consider that he requires treatment in an asylum they must apply on police for an inquisition *de lunatico inquirendo*, and have the disputed question tried by a jury, the remedy which should always be invoked when the party is not dangerously insane, and his property sufficient to justify the expense. Application to revoke granted.

INSANE DELUSIONS—AFFECTING TESTAMENTARY CAPACITY.

SUPREME COURT OF NEW JERSEY.—SMITH et al *v.* SMITH et al.

Extract from the Charge of Judge CHARLES G. GARRISON, *to the Jury.*

There remains, then, one point to be considered in reference to the propositions of law which I have stated to you. Did this testator possess a

judgment and will that was free from an internal mental delusion of a character which would invalidate his attempt to dispose of his property ?

The single question, therefore, which you are to determine is whether Hezekiah B. Smith, at the time when he executed this will, was, as to his mental condition, possessed of an insane delusion in regard to certain persons who are the natural objects of his bounty.

The parties to this inquiry before you are, on the one hand, the trustees named in this testamentary document. The will in question leaves all of the testator's estate to a charity and appoints certain trustees. They are before you, supporting the will of their testator. On the other hand are the widow and the children of the testator. The testator, if he possessed testamentary capacity, had a perfect right to make this will cutting off his widow and children. It is no affair of ours as to what his motives were, nor is it any affair of yours as to whether it was cruel, unjustifiable or unreasonable.

The simple question is—Had he the mental capacity to do it ? Now, he had the capacity to do it ; for he was a sane man in all other respects, as appears by this case—he had sufficient mind to do it, unless. in regard to this matter of the relation in which these defendants stood to him he had not sufficient mind because his ordinary mind as to that point was interfered with by an insane delusion which prevented his mind from operating upon this subject with that degree of sanity with which he must be presumed to be capable of regarding all subjects. That is the sole issue in this case as regards this part of it—testamentary capacity.

The definition of what constitutes an insane delusion is one which various judges and writers have attempted to give. One ordinarily met with is in these words :

"An insane delusion is a belief that has no basis in fact or reason ; one that springs up spontaneously in the mind without any extrinsic evidence."

That definition is not of modern origin, but finds its way into the cases nearly a hundred years ago.

If all the words of this definition were understood in the sense in which they are used by the judges or the jurists who apply the proposition it might pass current as a legal definition of an insane delusion. I do not, however, like the definition ; one of the troubles with it being that it uses the word *belief*—that an insane delusion had been defined to be a *belief* that has no basis in fact.

Now, by using that word *belief* this definition might be taken to imply that insane delusion is a condition of mind in which the reasoning faculties are chiefly at fault, or where sound judgment or mental discrimination is either weak or totally lacking. If it was so understood it would be a radically false idea.

The essence of insane delusion is not that a man's reasoning faculties do not work as they should ; it is not that they reach conclusions not warranted by a sound judgment or even by ordinary average good sense. That is just what an insane delusion is not. An insane delusion in the view that the law takes of it, is where a man assumes, as the basis of his reasoning, something to be true as a fact which has no foundation in fact.

It is easier to state to you what an insane delusion is not than it is to define just what it is.

Thus, an insane delusion is not merely the holding of a totally unfounded suspicion, nor is it the holding of an unreasonable or an unjustifiable opinion, however wild or fanciful that opinion may be; if the mind is capable of apprehending the facts of the matter his resulting mental operations cannot be called insane delusions. To constitute that infirmity there must be a persistent acceptance by the mind of things as being real which have no existence. A man may so lack discrimination as to be easily duped. He may be so credulous as to base his conduct upon false statements and his convictions upon fallacious evidence; he may be so violent as to go to the greatest extremes of opinion upon the most insufficient and ridiculous data—but none of these, nor all of them together, evince a mind possessed of insane delusion.

To have an insane delusion the mind must be dominated by a false and extravagant notion as to the existence of something which does not exist, save as the mere creature of mental aberration. If this false notion has been reached in some false process of reasoning; if it has resulted from relying upon unreliable sources of information or from drawing violent and unwarranted conclusions from inadequate circumstances, it is not proof of insane delusion, because while the logical faculties may be at fault there was no insane presentation to the mind of something which had not real existence. The idea which I am endeavoring to express to you has been so much better said by one of the most brilliant men who ever adorned the English Bar, that I shall read his words as containing the idea which I wish you to receive.*

"Where insane delusion exists imagination holds uncontrollable dominion over reality and fact. Such persons may reason with subtlety; their conclusions may be just and frequently profound; but the premises from which they reason when within the range of their delusion, are uniformly false; not false through any defect of knowledge or judgment, but because a delusive image, the inseparable companion of insanity, is thrust upon their subjugated understanding; incapable of resistance because it is unconscious of attack." And later on in the same address, from which I have quoted that, this language is used: "I cannot allow the protection of insane delusion to any man that only exhibits violent passions and malignant resentments based upon real circumstances." And further on he says: "insane delusion acting upon a man must be such as to shake reason in its citadel; to cause him to build up as realities impossible phantoms of the mind, and to be impelled by them as motives irresistible, the whole fabric being nothing but the vision of his delusion, existing nowhere else, having no foundation whatsoever, in the very nature of things." From these words you will have to gather the idea of the mental condition with which you are called upon to deal in this case, and you are to determine upon all of the evidence that has been admitted before you in the case, whether, at the time Hezekiah B. Smith executed and published the will in question, his mind in reference to the matter of his kindred was in such a condition that the result reached was

*Lord Erskine addressing the jury in The King *vs.* Hadfield.

the result of false reasoning, of a violent and impetuous temperament on his part, or of any other of those faculties which a man may possess and yet be sane, if he knows the facts about which he is reasoning, or whether his mind at that time was of such a character that he was controlled by a belief in the existence of things which had no reality excepting in his imagination.

That leaves then for your consideration the question as to whether the testator's mind, in regard to the natural objects of his bounty at the time he made this his will, was the subject of an insane delusion to the effect that he could not have procreated these children as his ofspring.

If that condition of mind did exist it vitiates this will.

That it is perfectly possible that such a condition of mind may exist may be generally affirmed upon psychological laws, there is no form of delusion that the human mind may not, so far as we know, be capable of entertaining.

So there remains in this case the question—and it is narrowed down to this—whether the proofs satisfy you that Smith's mind was the subject of the insane delusion that he had never been able to procreate children by Eveline Verona, and that, as a matter of fact, he had never procreated them.

If, however, the condition of Smith's mind was such that when he said he never had had the power of procreation he believed it, then it was an insane delusion, because the evidence in the case shows conclusively that it would be contrary to all evidence that a rational human being could accept to believe that he had not had the power of procreation. The law presumes that he had, and you must see in this case that it would be contrary to all human reason to suppose that Hezekiah B. Smith, had never possessed the power, during his period of life with Eveline Verona, of procreating children.

If, therefore, he truly expressed the condition of his mind, and if the condition of his mind was such that he honestly believed that physical incapacity had extended over the period of time to which his children were accredited, then it was an unreal phantasy; it was a presentation to his mind as though it were true of a physical condition which was utterly false, and which any man but an insane man would have known (knowing what he otherwise would have known about his past life) to have been ridiculously false.

This, then, is the issue which you are to determine in this case. For, upon the determination of that fact—and you are to view it entirely as a fact—rests the mental capacity of this testator to make a valid will. If his mind was not the seat of an insane delusion in reference to his procreation of these offspring or his ability to do it, then he is entitled, and those who support the will are entitled—their testator not having been shown to be insane as a general mental condition—to have the benefit of the presumption which attaches to every testator.

EDITORIAL.

MECHANICAL RESTRAINT OF THE INSANE.

We extract from the last report of the State Insane Hospital of Alabama the eloquent words of Dr. P. Bryce against this practice. It is a notable protest against alienists of position and influence in the world, lending their names to the revival in England and America, of a practice so abhorrent to the insane, and so liable to abuse by ignorant, lazy, or careless superintendents and physicians.

The argument in its favor, briefly stated, is this: "*That a superintendent should have the right to resort to mechanical restraint only in extraordinary cases and when all else fails.*" Ergo, "*It should be left to the discretion of the superintendent* to apply it when he deems it *absolutely necessary.*" The whole claim is erroneous. It rests on no reason, no logic. Its consequences are pernicious and defeat recovery in many cases.

It rouses every faculty of the restrained to resistance; it being a violence, engenders violence. If the insane are possessed of an evil spirit it exorcises it, and all the devil in human nature rises when the restraint is used.

Especially in America, where personal violence or restraint is never justifiable, how can we hope to so change the nature of the insane, as not to make his very blood boil, at what he from his life-teaching and from his cradle, has been taught to regard as an outrage and a wrong.

Much of the ungovernable conduct of the insane termed violent is due to this practice.

William Borst was regarded as one of the most violent of the insane at Utica and at Willard asylums. The amount of property he destroyed was enormous. The moment Dr. Wise changed the policy of his treatment and abolished force, that moment was the end of all violence by Borst, which he has often told me was, from his stand point, retaliatory and strictly justifiable.

He looked upon it as a combat between the State on one side, through its agents and ministers, the superintendents, attendants, and himself, and while he knew how thoroughly he was handicapped in that struggle, he regarded it as due to his manhood, to devote all his energies, and even his life if need be to the contest.

When Dr. Wise took him out of the ward of the most violent, and made him an assistant to the cook, where he had full liberty, on his simple word of honor, he could not credit at first the evidence of his senses. Treated almost as a wild animal, he had taken the role of one. From that hour until his discharge he was guilty of no violence. During a period of over a year, in which I had him under observation, and when he had full fredom of action, he was able to control himself.

The discretion of the Superintendent, is a fatal, a terrible test of the right to use mechanical restraint. Not one of the incompetents who put 80 to 100 insane in camisole or muffs in a day, in large asylums, would hesitate a moment to certify, and even testify, that in his judgment it was absolutely necessary.

But place Dr. Bryce, Dr. Orange, Dr. Alice Bennett, Dr. Carlos, F. McDonald, Dr. P. M. Wise, Dr. Blumer of Utica, or Dr. Wm. B. Fletcher in charge of the Institution, and not one camcisole or muff would be used.

What shall we say of "Individual discretion?" From

the day of Connolly in England, of Pinel in France,—from the long list of those who manage the insane, without mechanical restraint, to those who confess themselves unable to do so it seems to be rather a question of *savior faire.*

The one *who knows how to do it,* is the man who should do it.

The one who finds himself unable to do it, should seriously question his fitness for the position of superintendent of an asylum for the insane. To be actually unable to control the insane without resorting to it should be regarded as evidence of incompetency.

When we find men like Dr. Wm. Orange, who in charge of the insane called criminals at Broadmoor, in England, every one of whom had done violence of some kind and been committed by the Courts reporting year after year, that he had not been obliged to resort to any form of mechanical restraint, when refined women like Dr. Alice Bennett, in charge of the State Asylum for Women at Norristown, Pa., report year after year that she had not found it necessary to adopt mechanical restraint, and when superintendents of asylums throughout England and America make similar statements and reports, how should it affect superintendents, who, like Dr. Savage of London, was either unable or unwilling to do so. No one has higher respect or regard for Dr. Savage, than the writer. I know him to be an honorable conscientious, very intelligent alienist, but when in charge of such an institution as Bethlem Hospital in London—if he found himself unable to control the insane, without these methods as others demonstrate their ability to do, it was not to his credit as a practical superintendent, and only shows his want of *savoir faire* in such a position.

Dr. Magnan at St. Anne in Paris, assured the writer that he had never seen or known a case, and he believed no case existed, that could not be controlled and managed without resort to mechanical restraint. He left beautiful works of art, and articles of vertu, where the violent insane could have destroyed them, and he said not a penny's worth had ever been harmed.

The late Dr. Gray of Utica, was honest enough in his belief in the necessity of the use of the crib, and other measures of torture, applied to the idea of making an insane person quiet and safe by force and violence. His strong personality and combativeness of character, lent enormous weight and influence to practices in American asylums that shocked British, French and Belgian superintendents and alienists. His successor in the same asylum abolished the crib and also all forms of mechanical restraint.

Dr. Alice Bennett Sup't of the State Hospital for Insane Women, at Norristown, Pa., says in her annual report for year ending September 30, 1890: "No mechanical restraint is made use of in this department."

She has under her care, about 950 patients. She had 14 classed as criminal, and 7 who were convicted of crime.

Dr. P. M. Wise, in 1896, in a paper read before the Convention of Superintendents of the Poor at Jamestown, N. Y., Said:

"Ten years ago bodily restraint in certain forms of insanity was considered quite essential, from four to five per cent. of the insane, were subjected to some kind of mechanical restraint. To-day of 1,850 insane persons in the Willard Asylum, not one is subjected to restraint, and in this particular, Willard Asylum is not exceptional."—MEDICAL-LEGAL JOURNAL, Vol. IV, p. 162.

Dr. Carlos F. Macdonald, State Commissioner in Lunacy, gave permission to the writer to quote him as

saying, that mechanical restraint was not now practised in any of the asylums of the State of New York.

I am glad to be able to make this statement, as a contrary opinion had obtained among many in regard to some of the State Asylums.

The difficulty lies at the root. It is further back—deeper than shown on the surface—are we to deal with the insane by brute force, by trickery, devices and contrivances, where by using our superior power over them, we can compel them to this line of conduct, or to refrain from that, or are we, to treat them with kindness, tenderness, forbearance and even love? The eye can command, can entreat, can co-erce even, and the confidence, the affection, the heart of the insane, can be won and mastered, as well as the sane, and by much the same methods.

We regret to say, that the attitude of Dr. Savage, Dr. Hack Tuke and other English alienists of eminence, has done much to turn back the shadow upon the dial of progress in America, in eliminating from our asylums the barbarities and atrocities of this practice.

None would be more shocked than these very gentlemen, could they realize how their utterances have been interpreted to justify the use of mechanical restraints, in some of our asylums, where the vice still continues.

Their error is in disputing, as to the right of the superintendent, in an emergency, in surgical and other cases, to apply mechanical restraints, and a fear that a contrary doctrine would hamper and bind the freedom of even a Connolly or a Pinel.

The dilemma they raised confused even Dr. R. Hayes Newington, who is at the head of the greatest private asylum in the world at Ticehurst in England, one of the most suberb and splendidly equipped establishments

that could be conceived of—and inferior hardly to any of the great English baronial estates.—He had never resorted to mechanical restraints in his life and suddenly he encountered one case that came upon him so unexpectedly, that he did use it to prevent a patient from permanently and irreparably disfigureing himself. He saw no other way at the moment to do, and so in the emergency and under its pressure, he put the patient under restraint and the result he felt was favorable and from his stand-point justifiable.

Dr. Connolly would have succeeded without it, so would Dr. Magnan, Dr. Pinel, Dr. Wm. Orange and Dr. Newington would doubtless again have also done so, had he been allowed more time for thought or preparation.

This abstract debate of the English alienists does not interest us so much as the glaring fact to which Dr. P. Bryce calls attention, that the use of mechanical restraint is now coming again into vogue, and is being practiced under the authority and apparent countenance of these lustrous names.

It is said that the enemy of mankind sometimes quotes scripture to sustain his propositions, and with like effect the supporters of the general use of mechanical restraints, find comfort in the utterances which give to superintendents a discretion in this matter for practices that I know neither Dr. Savage nor Dr. Hack Tuke would justify were either of them in charge of the institutions where these rules exist.

THE LAW OF COMMITMENT IN NEW YORK.

Much has been said and written of the law of commitment in this State.

The public interest and feeling is and ever will be

deep and profound regarding it. It is a healthy sign that this is so. Superintendents of asylums often do not so regard it, but their sight is affected like the miners by their environment, by the reflected light and constant contact with those committed as insane.

The recent case of Alderman Kehr has been of signal service in two ways.

1. It shows how easy a thing it is to induce a certain kind of experts, to sign certificates of commitments which, when investigated, do not meet judicial sanction and

2. It gives us as a result the vacation of the same order by the judge who grants it, when he is satisfied that he erred in signing it.

The principal benefit, however, is the legal opinion of Judge David McAdam upon the law of committments in this State, which we give at length in another column, which throws light on the subject, and will be read by the bench, bar and physicians especially those who, under our law, are authorized to sign those commitments, with great interest.

NECROLOGY.

We are grieved to announce the death of our late Vice-President of the Society, Dr. W. G. Stevenson, who has been so long and so intimately associated with the editor of this JOURNAL and with the work of the body. He was an associate editor of this JOURNAL, a member of the Committee on Publication of Medico-Legal papers, and one of the staunchest of our friends. He has contributed valuable papers one Medico-Legal and scientific subjects, and his article on Criminality, lately published in columns, attracted great attention.

Chief Justice Marcus Morton. This great jurist and distinguished gentleman has passed away. His health

had been failing for some time so that he contemplated resigning the chief-justiceship of Massachusetts, a position he had so worthily filled. Death has relieved him. He was one of the corresponding members of the Medico-Legal Society.

Dr. Joseph Parrish, of Burlington, N. J., one of our corresponding members, President of the American Society for Study and Cure of Inebriety, died recently. He was the author of a valuable work on inebriety and was a man of great influence and research in that domain.

Dr. T. R. Buckham, of Flint, Mich., who has recently died, was a physician and alienist of great distinction. His work on insanity attracted great interest. Dr. Buckham was one of our warmest and most enthusiastic workers, and his death will be a serious loss to the world of alienists, especially American.

Dr. W. C. MacFarland was a well known and universally beloved physician, one who took a deep interest in the welfare of the Society ; his death will afflict a large circle of friends.

INSANITY AS A DEFENSE IN CRIMINAL CASES.

This subject which has excited so much interest in the public mind has recently received an immense amount of attention.

The Maybrick case more than any other event directed English thought to it in 1889.

The interference of the home secretary without the approval of the presiding judge, however, quieted the popular agitation, and saved a change in the English criminal trial system, giving the accused a right of appeal and review in capital cases to the court of last resort, which is now denied convicted persons in England.

The recent case of Dougherty the insane man who shot

the superintendent at Flatbush Asylum has received considerable notice in the public press.

There could not be the slightest doubt of the insanity of Dougherty. Why he was tried at all, was always an unanswerable question. Had the homocide occurred while he was an inmate it seems incredible that he could have been tried at all. That he had escaped from and was out of the asylum, when he shot the physician, ought not to make any material difference so far as he was concerned.

A statute in this State provides a way by which the District Attorney or the defense, could have settled the question of his insanity in a few days at farthest by an inquisition.

We do not understand that an expert witness pronounced him sane on the trial.

The trial seems to have been conducted on the theory that a conviction was necessary in order to legally place him in an asylum.

This surely cannot be necessary. The expense of a capital criminal case is very great, and a verdict of conviction of manslaughter of an insane person, involves the same questions so far as the mental state and responsibility of the accused is concerned, indicted upon a charge of murder.

It is quite incomprehensible, how a legal conviction could be had, in the case of a man like Dougherty universally known and conceeded to be a lunatic. The result of placing him securely in an asylum, where a recurrence of the offence can not likely occur, all good citizens will acquiesce in. It is a fortunate denouement, but the lunatic should have been declared at once insane by a competent commission and committed to an insane asylum for the insane. The trial and conviction of

those known to be insane, unsettles well known principles of law, and gives rise to questions which are unanswerable. We shall watch the outcome of Dougerty's case with great interest.

PERSONAL.

Moritz Ellinger, Esq., has been called to the editorial chair of *The Menorah*, made vacant by the untimely death of the late Benj. F. Peixotto.

Dr. Dubuisson of St. Anne, Paris, has opened a course of lectures before the Faculty of the Law, on Legal, Medical and Criminal Liability of the Insane, commencing January 8, 1891.

Sir James Fitz James Stephen : Painful rumors as to the failing health of this distinguished jurist and great English Judge, have lately reached us. We have been told that his magnificent intellect was giving away.

Lord Coleridge was deputed by the English Bench to bring the painful truth to his attention, and the other day Sir James retired from the Bench in the presence of the English Judges and his personal friends.

His treatise on the History of the Criminal Law of England, aside from his other great works, placed him in the front rank of the English Judges, and the English Bench loses one of its ablest and most conspicuous figures in the retirement of Sir James' Fitz James Stephen.

The following additional names of those who will contribute papers to the International Congress of Medical Jurisprudence for 1892, have been forwarded to the President.

Prof. Marshall D. Ewell, of Chicago; Dr. S. V. Clevenger of Ill.; Edward Payson Thwing, M. D., of N. Y.; Dr. Henry Leffman, of Phila., Pa.

PRIZE ESSAYS.

We had hoped to have announced the result of the contest upon Prize Essays in this number, but we are unable to do so. The committee have been unable to agree upon a report, on account of divergence of views. They are so scattered that a session of the committee is impracticable, and the solution must be reached by correspondence, and in some cases by a re-examination of the Essays. We trust that a solution will be reached by our next number.

THE INTERNATIONAL MEDICO-LEGAL CONGRESS OF 1892.

The preliminary work of this second session goes quietly forward.

The Inaugural Address of the President, published in the December number of this JOURNAL, gives the present officers of that Congress, and the names of those who are already announced to contribute papers.

We hope that all Active, Corresponding and Honorary Members of the Medico-Legal Society, who are willing to co-operate in this Congress, will write to the President announcing their willingness to contribute papers, and so far as practicable, the title of the article.

The Bulletin of the first Session of this Congress will be ready for delivery to subscribers shortly, at low price of $3. Those who have not remitted for the same will please do so.

THE SUPREME COURT OF THE AMERICAN STATES AND THE PROVINCES OF NORTH AMERICA.

The present number, contains selections from the proposed forthcoming work of the Supreme Court, as contemplated and previously announced.

We give the group of the Judges of the present Supreme Court of Georgia, with a historical sketch of that court and of the members of the bench (except of the

chief justice) from the pen of Charles Edgeworth Jones, Esq., of the Bar of Augusta.

The historial sketch of the Supreme Court of Alabama was prepared under the eye of Chief Justice Stone, and of ex-Justice Somerville.

It is difficult to find the space in a quarterly for much of the contents of the forthcoming volume.

If we gave two States in each number, we could only give eight in a year, and it is doubtful if we could produce these without crowding out much that has higher claims on the space of the JOURNAL.

We, however, give enough to show the character of the proposed work. We shall issue the first volume at the low price of $5.00, if sufficient encouragement is given by the Profession and the Bench.

We should be glad to receive subscriptions from those who care to order the work.

SECTION OF CRIMINOLOGY AND PENAL LAW.

Prof. Roland P. Falkner, of Phila., has consented to act as one of the committee on this section, and those who are willing to enroll in a section of this character, will forward their names and $1.25 enrolling fee, to Mr. Clark Bell, at 57 Broadway, or to Mr. Willard C. Humphreys, Secretary, at No. 56 W. 51st st., city.

SECTION OF PSYCHICAL RESEARCH.

We hope that such persons as take an interest in this study, will enroll in this section.

Its organization will shortly be announced, as soon as the nucleus of a section is completed. We have already received many eminent names.

This investigation can be carried out by members wherever situated. Facts and data are the important factors in such an inquiry and plans of investigation and methods of work can be arranged after the formal organization of the section.

MEDICO-LEGAL SOCIETY—FEBRUARY MEETING.

PRESIDENCY OF CLARK BELL, ESQ.

Medico-Legal Society met on February 11, 1891, at Hotel Buckingham. President Clark Bell in the chair. The minutes of the January meeting were read and approved.

The following persons were elected on the recommendation of the Executive Committee :

ACTIVE MEMBERS

Proposed by CLARK BELL, ESQ. : Ramon Guiteras, M. D., 107 West 54th Street, New York City ; Dr. F. T. Fuller, State Insane Hospital, Raleigh, N. C.; Dr. Roland H. Stubbs, 10 Broad Street, Waterford, N. Y.; Prof. Roland P. Falkner, Philadelphia, Pa., editor *Annals American Academy of Science;* G. A. Endlich, Esq., editor *Criminal Law Magazine*, Reading, Pa.

CORRESPONDING MEMBERS.

Proposed by CLARK BELL, ESQ. : Henry Chieny, avocat a la Cour d' Appel, Paris, France ; Prof. Dr. Messerer, Prof. Extraordinary of the Court of Munich, Bavaria ; ex-Judge Theodore J. Barnett, New York City ; Mrs. S. E. King-Ames, Mechanicsville, N. Y.

The report of the treasurer was read and was referred to the Auditing Committee.

The preliminary report of the Standing Committee on Hypnotism was read. The paper was discussed by Dr.

E. P. Thwing, Moritz Ellinger, Esq., D. Paul Gibier, Wilson MacDonald, Esq., Julian Hawthorne, Esq., Judge R. B. Westbrook, and others. Letters in reply to questions sent to them by the President concerning the report of the Standing Committee on Hypnotism were read from Prof. Wm. James, of Harvard; Prof. G. T. Ladd, of Yale: Dr. C. H. Hughes, of St. Louis; Professor Jastrow, of Wisconsin; Professor Carus, of Chicago: Dr. W. H. Palmer, of Providence, and others.

It was moved that the communications sent in reply to the questions submitted in the preliminary report of the Standing Committee on Hypnotism be printed and circulated prior to the final discussion of the subject presented by the report.

A paper on "National and State Chemists in Courts of Law" was read by the President.

A paper was read by Albert Bach, Esq., on "Lunacy, Real and Fictitious, and its Treatment." It was ordered that the formal discussion of Mr. Bach's paper be deferred until the next meeting.

The Society then adjourned.

WILLARD C. HUMPHREYS,
Secretary.

MARCH MEETING.

PRESIDENCY OF CLARK BELL, ESQ.

Medico Legal Society met on March 11, 1891, at Hotel Buckingham—Vice-President H. M. SOMERVILLE in the Chair.

The minutes of the February meeting were read and approved.

The following members were elected on recommendation of the Executive Committee:

ACTIVE MEMBERS.

Proposed by CLARK BELL, ESQ.: Dr. Isidore Dyer, Assistant Physician Skin and Cancer Hospital, New York City; Prof. Edwin Checkley, 111 Rutledge St., Brooklyn, N. Y.; Dr. R. A. Caldwell, 41 West 34th St., New York City; B. O. Flower, Esq., Editor *Arena*, Boston, Mass.; Dr. Burnside Foster, 608 1-2 Nicolet Ave., Minneapolis, Minn.; J. M Parker, M. D., Mt. Pleasant, Iowa.

Proposed by Dr. W. S. FLEMING: John L. Macumber, M. D., Supt. Kings Co. Insane Asylum, Park, L. I., N. Y.; David A. Harrison, M. D., Supt., Breeze Hurst Terrace., Whitestone, L. I., N. Y.; Ira O. Tracy, M. D, Kings Co. Insane Asylum, Flatbush, L. I.

Proposed by Dr. PHILLIP K TAYLER, of Rhode Island; Dr. H. Goodwin Mackays, Newport, R. I.

Proposed by Dr. M. J. WHITE, of Wisconsin: Clarence S. Brown, Esq., District Attorney, Milwaukee, Wis.; Alvin C. Frazee, Esq., Attorney, etc., Milwaukee, Wis.

CORRESPONDING MEMBERS.

Proposed by CLARK BELL, ESQ.: Dr. Luis MaDrago, Buenos Ayers, S. A.: Dr. Jose Nicolais Matienzo, Buenos Ayres, S. A.; Dr. Rudolph Rivaro, Fiscal of the Superior Court of Appeals, Buenos Ayres, S. A.; Dr. Antonio F. Pirero, Director of Insane Asylum, Buenos Ayres, S. A.; Dr. N. Pirero, Buenos Ayres, S. A.; Dr. Edgar Berillon, Editor *Revue De Hypnotisme*, 40 Bis Rue de Rivili, Paris, France; Prof. Delboeuf, Faculte de Medicine of Liege, Belgium; Prof. Paul Carus, Editor *The Monist*, Chicago, Ill.; Prof. Jastrow, University of Wisconsin, Wis.; Prof. G. T. Ladd, Yale University, New Haven, Ct.; Prof. Wm. James, Howard University, Cambridge, Mass.

The following correspondence was read:

OFFICE OF THE PRESIDENT OF THE MEDICO-LEGAL SOCIETY, 57 BROADWAY.
NEW YORK, March 9, 1891.

To His Honor, Mayor HUGH J. GRANT.

SIR:—I have the honor to transmit to you a copy of a Report of a Standing Committee of this Society, upon the re-organization of the Morgue in the City of New York, which received the unanimous approval of that body, January 14, 1891, accompaning my inaugural address, pronounced January, 1891, which contains recommendations upon that subject, on page 255 of the MEDICO-LEGAL JOURNAL, herewith transmitted to you.

I have the honor to inform you that I have been charged by the Medico-Legal Society with the duty of naming a committee for conference with yourself and the municipal authorities upon this subject, and that you will be advised of the composition of the committee at an early day.

Very faithfully yours,
CLARK BELL,
President Meico-Legal Society.

CITY OF NEW YORK, OFFICE OF THE MAYOR, March 10, 1891,

CLARK BELL, ESQ., President, 57 Broadway.

DEAR SIR:—By direction of the Mayor, I have the honor to acknowledge the receipt of your communication, in regard to the report of the Medico-Legal Society, on the re-organization of the Morgue in this City.

Respectfully,
W. M. McSPEER,
Secretary.

A set of resolutions was offered by Dr. I. B. Mattison, concerning the necessity of legal restrictions upon the sale of poisonous drugs by apothecaries and druggists; and it was moved that a committee of two be appointed to ascertain and report the present law upon this subject prior to the adoption or final discussion of the resolution by the Society. Vice President Albert Bach and Dr. I. B Mattison were appointed to constitute this committee.

A paper on Cocaine Poisoning was read by Dr. I. B. Mattison, and was briefly discussed.

The report of the Committee on the Inaugural Address was read by Dr. H. A. Mott, Jr., and was received and adopted.

To the Medico-Legal Society:

Your Committee, to whom was referred the very able and learned Inaugural Address of our President, CLARK BELL, Esq., with instructions to report to the Society such recommendations based on its suggestions as the Committee might deem proper, beg leave to report:

They have nothing to add on the subject of the appointment of a National Chemist by the Government of the United States, or of the re organization of the Morgue in the City of New York, or of the further scientific investigation of Hypnotism. These matters are already in the hands of able and competent Committees, who will no doubt prosecute the matters committed to their charge on the line of the President's suggestions.

But one other recommendation in the address invites our attention, and that is the one relating to the proposed organization of a separate section upon Criminality and Criminal Anthropology. The design of this section of the Society is to advance the study of this particular subject, and to act in union with the International Union of Penal Law in the furtherance of this end.

The President suggested that

"This section be composed of such members of this Society as desire to devote any attention to the study, and of all other persons whether members of the Society or not who enrolled and paid an enrolling fee of $1.25 to cover expenses of printing, postage, etc.

"Three members of the Union," he adds, "now reside in the United States, some of whom would take charge of the organization, and their labors could be annually reported to this body, and to the International Union."

The President recommends the appointment of a Provisional Committee to take charge of the initiatory labor looking to the promotion of this section and the other sections needed.

Your Committee concur very heartily in this recommendation, and suggest that the President be empowered to carry it out by naming as many members to constitute such committee, not exceeding three members, as he may deem proper.

HENDERSON M. SOMERVILLE,
HENRY A. MOTT, Jr.,
ISAAC LEWIS PEET.

NEW YORK, March 11, 1891.

On consideration of the appropriate action to be taken relative to the deaths of the following members of the Society was, on motion, postponed till the April meeting: Dr. W. G. Stevenson, of Poughkeepsie, late Vice-President of the Society; Dr. T. R. Buckham, of Flint, Mich.; Dr. Joseph Parrish, of New Jersey, Corresponding Member of the body and President Society for Study and Cure of Inebriety; Hon. Marcus Morton, Chief Justice Su-

preme Court of Massachusetts, Corresponding Member of Society; Dr. W. C. McFarland, an Active Member.

The discussion on Vice President Bach's paper on Lunacy was also postponed.

The Society then adjourned.

WILLARD C. HUMPHREYS,
Secretary.

Journals and Books.

DARWINISM TESTED BY LANGUAGE. By DR. FRED. BATEMAN, Rivington's, London, (1877), pp., 224.

DR. BATEMAN has for many years made Language the subject of scientific study and research, and the later edition of his treatize on the localization of the faculty of speech exemplifies the profound character of the careful investigations in this field of inquiry which he has made.

The absurdity of the theories upon which Darwin came before the world with his "Origin of Species," and his "Descent of Man," and the impassible gulf between them and the plain teachings of science led Dr. Bateman as long ago as 1877, to bring out a work in which he presents what he regards as insurmountable obstacles to the acceptance of the theories of Darwin by the careful scientific observer, as to the origin of man.

We well remember the heat and noise of the conflict of the era in which he wrote. Fourteen years have elapsed and while the contest is not wholly over, few scientists now-a-days, can review the wholly mythical structure of man's transformation through the Ape to the molecule, or the more extraordinary twenty odd steps as furnished by Haeckel of Jena, in a decending scale to the Anthropoid Apes of the pliocene period of the tertiary age, in a continent in South Asia, now lying at the bottom of the Indian Ocean, except with wonder at the vivid imagination which could create the whole ladder step by step and stage by stage without one scientific truth or fact on which such an idea could be based, much less demonstrated. One century from now these disquisitions will be read as *curios* of our era, and the antiquarians of the 21st century will quote them as we now do the writings of the very ablest minds and scholars of the past on Astrology and Demonology in the 14th and 15th centuries.

These theories of Darwin and his school, were as a rule seized by that class of thinkers who denied all revelation, and claimed that evolution must be true, because if true it was in conflict with the commonly received opinion of mankind since the prehistoric days, as taught in Genesis. Mere questions of faith throw no light upon scientific enquiry. It would require a more profound faith in an agnostic to accept the theory of "The Missing Link," "The Ape Like Man," or the Ape who had the faculty of speech, than it would to accept Genesis and the New Testiment both together.

No Agnostic could be asked to admit these assertions of Darwin, and there was no sure foot hold for the evolutionist who discarded them, and so the flood of unbelievers, who followed in the wake of Darwin and Hackel and Huxley, were hovering over that deep unknown and impentrable sea, which divided men as to the origin of the race, like the great flock of

white-winged birds in the vessels trackless wake of the mariner as he thinks he nears land.

Dr. Bateman's book was thrown into the caldron of discussion in that era with what he claimed was as insuperable an objection as "The Missing Link." He held that the characteristic which divided man generally from all animal life, was the "Faculty of Speech." This he was competent to show beyond most men of his day on purely scientific lines, and there was no answer to his statements feasible by scientists.

The earliest recorded evidence of man, the testimony of the ages, of fossil remains, all light shed by prehistoric data, showed this faculty in man, and its absence in all other forms of animal life or animated matter. This unsurmountable obstacle can neither be bridged or crossed. This deep unmeasurable gulf lies like a huge mountain or an immense rock of truth, in the way of the very initial point of the theory even, of evolution, and Dr. Bateman piles it up and builds its solid buttresses upon scientific foundations, eternal as the stars.

Again he mentions what all men of science have conceded as almost an axiom, until this strange discussion arose, that "species" are fixed. That they do not change, nor do they merge into each other.

The Engis skull which Prof. Huxley, describes (in the Anthropological Museum of London), and which Sir. Charles Lyell says was contemporaneous with the mammoth like all that Anthropology teaches, from the pyramids or tombs of Egypt; or the earliest records of the race clearly show, that man as a species has been changless through all the ages. While climatic influences and environment may account for all the multidinous colors characteristics and anthropological idiosyncracias of mankind, never has there been one change in the species of man, nor so far as human wisdom can determine in any other "species" of animals or animated nature. The horse, the cow, the pig, the canine, the duck, the cat, the hen, none of them all change ever in "species," though multiform modifications and varieties of each are shown as thick as leaves of the trees in autumn.

The Species cannot mingle one with another. When attempted with the horse and the ass, which so nearly resemble each other, sterility comes to the first cross, and while it is possible in the dog, the fox, the wolf, all of the same "species," it is impossible between the cow and the horse, or the pig and sheep or between any distinct *species*—Reproduction ceases—The barrier is insurmountable.

The swallows that built their nests in the eaves and rafters of Noah's Ark, were doubtless identical with those of our time. Measured and considered by all the light which science can throw and all human evidence from the most ancient of days not one instance of any change in "*species*" in animal life since the dawn of recorded time can be demonstrated.

If we are to be permitted to speculate as Darwin did, to draw on a vivid imagination as Haeckel did to supply from the creation of his over brilliant mind, all the twenty odd steps of ascending life, in the advancement from the molecule into any actual form of animated life of any distinct *species*, even to the "Ape Like Man," but without the faculty of speech, this is not science, and could not rest on science, nor upon evidence, and could not be supported by facts conscionable to the sense of man.

On the contrary it is in the realm of beliefs, it is a question of faith, and it has no more scientific value, than the faith of the believer in the Mosaic accent of the creation as evidence of its correctness or actual truth.

Of the beliefs of Darwin, of Haeckel, of Huxley, and of all this school of thinkers, they may be classed as of the same value in the domain of science with men of equal learning, who believe the story of Him of Nazareth, or that the Bible is the revealed word of God.

TEXT BOOK OF HYGIENE. By GEORGE H. ROCHE, M. D., 2d Ed. 421 pp. (1890) by F. A. Davis, Publisher, Philadelphia.

When Dr. Roché brought out this work, he dedicated it, as a Manual of Preventive Medicine.

In his 2d edition he has added about 100 pages and valuable illustrations, and has sought to note the advance in Sanitary Science, during the interval. The chapter on the Camps of the Soldier of to-day, and the Civilian in Camp life is valuable. That on Naval Hygiene is excellent which has been revised by Dr. Albert L. Gihon, U. S. Navy, that regarding Hygiene of prisons and prison life, merely touches the surface. The chapter on Quarantine is from the pen of Dr. WALTER WYMAN, of the U. S. Marine Hospital Service.

The work is entitled to a place on the shelves of the practicing physicians, as a reliable reference in any case that might arise in general practice, due to insanitary causes.

STRUCTION OF THE CENTRAL NERVOUS SYSTEM. By L. Edinger. Translated by WILLIS HALL VITTUM, M. D., and edited by PROF. C. EUGENE RIGGS, A. M., M. D., of Minn.; 2d edition. pp. 230. F A. Davis, Publisher. Philadelphia, (1890).

Dr. Edinger who is a well known writer on the Anatomy of the Brain, published a course of twelve of his lectures on minute cerebral anatomy, which he gave to post graduate physicians in 1883-4. This work was reproduced by an American translator, which students of brain structure have consulted.

The field of investigation has progressed. Recent years have chronicled important discoveries. A second edition became an imperitive necessity.

PROF. RIGGS of the University of Minn., has borne a conspicious part in the preparation of the 2d edition and DR. B. SACHS is given credit for good work upon it, aside from the labors of the translator DR. WILLIS HALL VITTUM of Minnesota.

The work itself is a carefully arranged systematic study of the Central Nervous System as well as the methods of investigation now and lately in vogue. The embryology comparative anatomy and histology of the Brain, is carefully treated and considered, as well as the usual coarser anatomy of the whole Brain structure and tissue.

It is a work which carefully studied would familiarize the student with present well defined anatomy of the Brain and of the whole Central Nervous System, and as such is valuable to advanced students or medical men in practice.

ON DOUBLE CONSCIOUSNESS. By ALFRED BINET.

The open Court Publishing Company of Chicago, demonstrate its *raison d'etre*, if in no other way, than the publication of works of this class, in its "Open Court Series" under the title of "Psychological Studies."—This and the other essays are reprinted from the columns of the "Open Court" during 1889-1890—and this little brochure is prefaced with an interesting introductory chapter on "Experimental Psychology in France," which aptly introduces the subject of the treatise.

BINET places M. RIBOT in the vanguard of Psychological inquiry and declares him as the originator and the Revue Philosophique as the organ and medium of the stimulus all have recently recognized in this study.

M. RIBOT, who is not a physician, nor a pathologist, has succeeded in electrifying France by his monographs upon the Psychology of attention as well as on diseases of the memory of the will, personality, etc., and claims that Ribot who with CHARCOT, RICHET, FERÉ and their confreres have created the Society of Pshysiological Psychology are the real authors of the renaisance. These men seem rather to be close and careful observers, who record all small incidents and facts on which they base their work and plans than originators of theories.

The study on Double Consciousness has been limited to the Hysterical Subjects, and Binet records his own observation with those of PIERRE JANET, a colioborateur of what they style "Unconscious Phenomena."

The subject of establishing two distinct "*Ego's*" in the same individual is at least delicate, and perhaps if conceded, would establish an abnormal condition of the patient or person studied.

Binet's method in a hysterical patient afflicted with anaesthesia, where marked insensibility of a limb enables, the operators to guard against simulation by the usual tests of insensibility and the additional use of a strong electric current, as well as the dynamometer and to cause the insensible hand for example to write or act independent of consciousness.

The peculiarieties of Planchette are thus made subject to scientific explanation.

These experiments were upon the sense of touch and the corrollary results of sensation, which are represented or reflected by the relation of the anæthesized hand, where mental consciousness must be regarded as out of the case.

The experiments with the Hystrical eye are still more remarkable, when the retina of one eye is insensible.

Placing this case before the "two officers" which will instantly detect shamming or simulation, the hysterical person sees with both eyes. The following phenomena is found, also. Place the patient at a distance, where he can read only the largest printed letters of a scale, and ask him to read the smaller letters below, which he cannot of course do, but place a pencil in his anæsthetic hand and he will be able to write the letters, which he is unable to read by the eye, the writing is automatic, and it often happens that unknown to the one consciousness, the insensible hand is actually writing the very letters which the other consciousness declared he cannot see.

Most remarkable results are obtained with those totally blind or blind with a single eye. Similar results being obtained especially as to color of objects. These examples indicate two different kinds of visual centres within the central cortex, viz., monocular centres which act when only one eye is open and binocular when both are open. The work also opens up the field of speculation as to periods of a double character in the same person, governed by an invisible and as yet untraceble dividing line akin to the Jekel and Hyde idea and which is fairly traceable in a certain class of hysterical patients. The monograph opens a field of suggestive inquiring to the student of Psychology.

American Journal of Psychology. Prof. G. Stanly Hall, Editor.

Vol. III., of this interesting journal is completed by the current number. Herbert Nichols of Clark University, contributes an elaborate article on "The Psychology of Time." Dr. C. P. Bancroft, an interesting paper "Automatic Muscular Movements Among Insane," and Prof. C. F. Hodge, one on "The Recovery of Stimulated Ganglion Cells.

The Department of Psychological literature is in charge of Prof. H. H. Donaldson, and that of Psychiatry, by Dr. Wm. Noyes, assistant physician at McLean Asylum, Somerville, Mass.

The journal is most ably edited and fills an unoccupied field in medico journalistic literature.

Medical Education and Medical Colleges in United States. By Dr. John H. Rauch.

The State Board of Health of the State of Illinois is, perhaps, the foremost of them all, in the character of its labors.

The Secretary, Dr. John H. Rauch is, all in all, the best equipped man in the United States to grapple with the question of Medical Education and laws relating to the practice of Medicine.

The volume just issued of 222 pages is the 7th Report, from his pen, and is a correct list of all the Medical Colleges and Institutions of learning where medicine is taught, not only but of all the examinations in the Medical Schools and a brief epitome of their work.

The labor of production of such a volume is simply prodigious, and Dr. Rauch and the State Board of Illinois are entitled to the thanks of the profession for its compilation, as well as of the laws of the several States regarding and regulating the practice of medicine.

Books, Journals & Pamphlets Received.

A. R. URQUHART, M. D.—Annual Report of Jas. Murray Royal Asylum for 1890, Perth, Scotland.

L. D. MASON, M. D.—Statistics of 4663 cases of Alcoholic Inebriety. (1890.)

T. L. WRIGHT, M. D.—The Criminal States of Inebriety. (1891.)

DR. ALBRECHT ERLENMEYER.—Steigerung der allgemeinen Reflexerregbarkeit. als. Anssergewohn liche. Chinin-Werking. (1890.)

GEORGE M. GOULD, M. D.—The abuse of a great charity. (1890.)

DR. M. H. LACKERSTEIN.—Medical Hypnotism by suggestion and discusssion in Chicago Medico-Legal Society. (1890.)

DR. W. P. RUYSCH.
DR. A. H. VAN ANDEL. } —Report of the Dutch Government on the Insane Asylums for 1878, 1879, 1880 and 1881.

J. BILLATTISON, M. D.—The treatment of Morphine disease. (1890.) Triple—Narcotic—Addictive—Opium—Alcohol—Cocaine.

J. T. ESKRIDGE, M. D.—Acute Myelitis, after acute optic Neuritis. (1890.)

PROF. KEMP. P. BATTLE.—History of the Supreme Court of North Carolina. (1889.)

GEO. THOMAS JACKSON, M. D.—Trans-American Dermatological Ass. (1890.)

CHIEF JUSTICE L. E. BLEEKLY of Ga.
Truth at the Bar.
Law as a Rule of feeling.
Truth in thought and emotion.
Woman.
Wisdom.
Poetic Sketches.

JUDGE GUSTAVE CORRON, Lausanne.
Du. delit. d'usure.
Statut. de la Solidarite Societe de l'enfance malheureuse.
Report to 4th Congress at St. Petersburgh. (1890.)
Letters to 3d Congress at Rome. (1885.)
Regulations covering the apprenticeship of infants adopted.
Loi de 17 Mai 1875, on elubuemts de detentione.
Bulletin de la Solidarite, May 1890.
Lou de Madame Lina, Beeh Bemark. (1888.)
Projet de Code penal le canton de Neuchatel.

F. A. Davis, Phil.—Principles of Surgery, by N. Senn, M. D. Ph. D.

Heredity Health and Personal Beauty, by J. V. Shoemaker, A.M., M.D.

P. Blakiston, Son & Co.—Practical examination of Urine, by James Tyson, M. D.

William James Morton, M. D.—The Franklinic Interrupted Current, or my new system of Therapeutic Administration of Static Electricity.

Chas. A. Oliver, M. D. Philadelphia.—A case of intracranial Neoplasm with localizing eye symptoms; position of tumor verified at autopsy.

Frederick Peterson, M. D.—A further study of Anodal Diffusion as a Therapeutic Agent.

Twenty-third Report of the Board of Trustees of the Connecticut Hospital for the Insane. (1890.)

Report of the German Poliklinik of the City of New York. (1890.)

Thirty-third Annual Announcement Long Island College Hospital.

Annual Report of the Supervising Surgeon General of the Marine Hospital Service of the United States. (1890.)

Cornell University.—Third Annual Report of the Agricultural Experiment Station. (1890.)

Q. Wellington Archibald, M. D.—Fourth Biennial Report North Dakota Hospital for the Insane, at Jamestown. (1890.)

Colorado State Medical Society, 20th Annual Convention. (1890.)

Fifteenth Annual Report of the German Legal Aid Society. (1890.)

C. E. Wright, M. D.—Forty-second Annual Report of the Central Indiana Hospital for Insane. (1890.)

P. Bryce. M. D.—Biennial Report of the Alabama Insane Hospital, at Tuscaloosa.

S. Bishop, M. D.—Annual Report of the Nevada State Insane Asylum at Reno, Washoe County, Nevada. (1890.)

Charles Edgeworth Jones, Esq.—Education in Georgia. (1889.

Theodore G. Wormly, M. D., L.L. D.—Recovery of Absorbed Morphine from the Urine. the Blood and the Tissues.

Q. Cincinnatus Smith, M. D., Texas.—The treatment of Chronic Tubercular Consumption. (1890.)

Frederick W. Seward.—An autobiography of William H. Seward from 1801 to 1834.

Ralph L. Parsons, M. D.—Points, Facts, Opinions and Experiences in Favor of the Reception of Voluntary Patients for Care and Treatment in Hospitals for the Insane, and more especially for Care and Treatment in Private Hospitals for the Insane.

Ten Eyck J. Remington.—Chart of the United States Law Association.

Chauncey B. Ripley, Esq.—Memorial Address of John Norton Pomeroy, L.L. D.

Dr. S. Bishop.—Report Nevada State Insane Asylum. (1889-90.)

JOHN W. WAUGHOP, M. D.—Report of the Board of Trustees of the Western Washington Hospital for the Insane. (1890.)

Forty-fourth Annual Announcement of Starling Medical College. (1890-91.)

RICHARD J. DUNGLISON, A. M., M. D.—Annual Report on laws regulating Medical Practice.

EUGENE M. BERARD, Esq.—Why not abolish the General Term?

F. B. LILLARD, Capt. WM. R. GARDEN.—Catalogue of the New York Southern Society "Garden Library" of Southern America.

Annual Report of the Postmaster-General of the United States for 1890.

STATE BOARD OF SUPERVISION.—Report of the State Board of Supervision, Wisconsin. (1889-90.)

Report of the Fire Department City of New York 1889.

DR. WATSON H. SAVAGE.—Physical Development Institute (Limited).

AUG. SCHACHNER, M. D.—Gunshot Wounds of the Abdomen.

D. L. I. FLANDERS, M. D.—A paper on Preventive treatment of fevers, colds and hay fever.

DR. CHARLES DENISON, A. M., M. D.—Abnormal Intra Thoracic Air Pressures and their Treatment.

MIDDLETON MICHAEL, M. D.—Address to the Medical Society of South Carolina.

C. F. BOEHRINGER AND SOHNE.—Quinine as prophylactis or preventive against Malaria Fever.

THOMAS J. MITCHELL, M. D.—Biennial Report of the Trustees and Superintendent of the State Lunatic Asylum. (1888-89.)

SETH S. BISHOP, M. D.—Imperforate Auditory Canals.

W. CHEATHAM, M. D.—Pyoktanin in Diseases of the Eye, Ear and Throat.

W. P. SPRATLING, M. D.—The Treatment of the Acutely Insane in General Hospitals.

H. O. JEWETT, M. D.—Medicine; Past and present.

DOUGLAS GRAHAM, M. D.—A Treatise on Massage.

JOHN V. SHOEMAKER, A. M., M. D.—Ointments and Oleates especially in Skin Diseases.

HOBART AMORY HARE, M. D., University of Pennsylvania, B, Sc.—Epilepsy, its pathology and treatment.

PROF. P. PELLACANI.—Ptomaine e Lengomaine.

Resistenza dei Velini alla Putrefazione.

Decolorazione dei Tessvti Putrefatti.

Dogimasia Gastro-Intestinale.

Lecture on modern Medico-Legal Science.

Observations and contributions to the Medico-Legal doctrine of "feticidio."

Sperimental Anatomy, and a paper on Toxicology by Guiseppe Luini.

MAGAZINES.

THE ALIENIST AND NEUROLOGIST, St. Louis.—(Prof. CHAS. H. HUGHES, editor.) Dr. T. L. Wright writes in January number on *The Criminal Status of Inebriety;* Dr. Ott Witmer on *Insanity in Colored Race;* Dr. J. G. Kiernan on *Evolution of Delusion;* Prof. Hughes on *The Visible Reflex;* Prof. Kowalewski, of Russia, on *Neurasthenia,* and Dr. Eugeno Tanzi, of Italy, on *The Germs of Delirium.* The editorial work of this review is of a high order.

THE CRIMINAL LAW MAGAZINE.—(Hon. G. A. ENDLICH, editor.) This journal commences its 13th volume with the January number of 1891, and is issued bi-monthly. It reports Judge H. M. Somerville's article on "The Legal Culpability of the Insane," read before the Medico-Legal Society, in its January number, and the report made by Dr. Emily Kempin to that body of the International Assoiciation of "Penal Law," heard in Switzerland last Summer. The editorial chair is now filled by Hon. G. A. Endlich, and we fell sure must give satisfaction to the readers.

THE MENORAH MONTHLY.—This journal commences its 10th volume with the January number.

It was founded by our late member, BENJAMIN F. PEIXOTTO, and is a fitting monument to his ability and industry. It is an able and advanced exponent of leading Jewish thought on this continent, and we are glad to see that our life-long co-worker, MORITZ ELLINGER, has been secured for its editorial chair. It is a guarantee of high excellence.

THE AREHA.—Mr. B. O. FLOWER, editor of this fearless and outspoken journal, is an able writer, clear thinker and has what is so rare, the courage of his convictions. His journal is able, progressive and clean.

THE HOLSTEIN FRESIAN REGISTER.—Edited by FRED. L. HOUGHTON, Boston, Mass. Those who wish to keep abreast with all that is new in the development of Holstein cattle will do well to subscribe for this journal.

We have long admired and read this organ of the most valuable of the milk and beef producing breed, and should not be able to get on well with our herd without this journal.

TRUTH.—(BLAKELY HALL, editor.) TRUTH has changed hands. More than its old readers know that. All the City knows it.

It publishes a suppliment each number with an admirable full-length portrait. The 1st, of Senator Ingalls; the 2d, of the English Poet Laureate.

It has an attractive look, is well illustrated; its contributers are of a high order. It deserves success and, we believe, will achieve it.

THE HOME MAKER.—(MRS. CROLY, editor.) The March number, 1891, is on our table—Vol. 5, No. 6. We did not see this journal under its former management, but it is plain "Jennie June" has transformed and metamorphized it. It is admirably edited, superbly illustrated, and it must sueceed because it so well deserves to do so

Albany Medical Annals.—W. G. Macdonald, M. D., Editor. This Journal is the organ of the Alumni Association of the Albany Medical College, and is a monthly of excellent standing.

The Medical Herald.—Edited by Dan'l Morton, M. D., is a well edited monthly, published at St. Joseph, Missouri.

The Canadian Law Times.—Hon. E. Douglass Armour, Editor. This is the leading law journal of the Canadas, a monthly of acknowledged rank in the profession, is published at Toronto and reports the proceedings and leading cases of all the high courts of the Dominion.

The Louis Lombard.—Louis Lombard is now in the first year of a new monthly journal he has started over his own name, published at Utica, N. Y. It is a readible and spicy journal and has good contributors. We notice a paper on Baths, by C. C. Ransome, M. D., Director of the Richfield Springs Baths, that gives a deal of information on that subject.

The Central Law Journal of St. Louis, Mo., maintains its high standing and position as a legal journal of great value.

Its weekly digest of current legal decisions is well worth its cost to every practicing lawyer.

Hon. Samuel Maxwell contributes an able and scholarly paper on "Rape" in the January 30, 1891 number.

The opinion of the Supreme Court of Indiana in Remkan *vs.* Wright (25 N. E. Rep. 823) as to custody of the corpse and right of burial is given in full in January 23, 1891 number, holding that it belongs to next of kin and not to the executor or administrator, which revives the old English rule.

Sterility, its Causes and Treatment, By Thos. W. Kay, M. D. This is a Prize Essay and is an admirable treatise upon the subject, which we regret our space prevents us from reviewing at length.

Pacific Medical Journal. San Francisco.—The March number, 1891, contains a scholarly paper by Dr. O. O. Burgess on Hpnotism, presenting the views of the Paris School of Scientists upon this interesting subject.

Dr. J. O. Hirschfelder contributes a careful and elaborate paper on "Memory" in same number.

North American Review.—The March number is of unexampled excellence. Major Generals Sickles, Gregg, Newton and Butterfield, contribute reminiscenses of Gettysburgh. Dr. Hammond writes on "Self-control in Curing Insanity." Lieut. Troup gives a clincher in "A Word About the Rear Guard." Lloyd Brice makes a splendid editor.

Revue de l'Hypnotism.—We are glad to receive this Journal of which the January and February numbers are on our table.

Edgar Berillon, is Editor-in-Chief and the corps of associate editors, embraces some of the most distinguished names in European circles.

The Ayraud-Bompard case attracts great attention, while original articles by Prof. Pitres of Bordeaux, Edgar Berillon, Dr. Dejerine de Rochas, Lloyd-Tueky (of London) and Giles de la Tourette, are in these two numbers.

Prof. Delboeuf contributes his opinion on the case of Gabrielle Bompard to the January number, and Prof. Bernheim contributes a reply to the views of Prof. Brouardel, in the affair of Gouffe.

LITTELL'S LIVING AGE.—This Journal continues in the very front rank of American reviews of its class, and its selections are admirable.

THE MAGAZINE OF POETRY.—We have received the January number of this quarterly, published by Charles Wells Moulton of Buffalo, N. Y., which commences its third volume.

It gives selections from our greatest living and dead poets, and is illustrated richly with their portraits.

THE THEATRE.—Deshler Welch, makes this sparkling Journal a delight to the homes of those who love the play. It is the play-goers friend and is improving in the quality of its illustrations.

LIPPINCOTT'S.—Fred. S. Coggus contributes the serial story to the March number. Annie Katharin Green, sends "A Mysterious Case." Walt Whitman two interesting reminisences.

No. 4 of the Round Robin talks is well illustrated and is especially good, and Joel Benton gives some unpublished letters from Horace Greeley.

THE ECLECTIC.—The February number contains a clever paper by St. Clair Thompson, on "The Dangers of Hypnotism," from the Westminister Review. The selections of this review are admirably made.

THE CHAUTAUQUAN.—Under Dr. Floods editorship, this journal is becoming one of the literary Bureaus of the land. It is more than select reading for Chautauquans. It is a treasure house.

MAGAZINE OF AMERICAN HISTORY.—It is a marvel how Mrs. Martha J. Lamb contrives to make each number of this Journal so rich and yet so interesting.

THE FAMILY RECORD (London).—This Journal stands at the head of the London Reviews of Sanitary service.

Besides original articles, and leaders on current topics of great interest, it publishes the reports of the Officers of Health, for England, Law and Police Reports and Notes on Inquests.

THE SUPREME COURT OF ALABAMA.

Alabama was admitted to the Union in 1819. The constitution under which the State was admitted provided in the fifth article that the judicial power of the State should be vested "in one Supreme Court, circuit courts to be held in each county in the State, and such inferior courts of law and equity, to consist of not more than five members, as the General Assembly may from time to time direct, ordain and establish." For a time the judges of the circuit courts were required to serve as judges of the Supreme Court, stated meetings being held at the seat of government to hear causes on appeal. A further provision required the judges of all the Courts to be elected by the General Assembly, the term of their office being during good beheavior.

The first term of Supreme Court was held at Cahaba, the capital, on the second Monday in May, 1820. The circuit judges present were Hons. C. C. Clay, Reuben Saffold, Henry Y. Webb, Richard Ellis, Hon. A. S. Lipscomb, the remaining circuit judge being absent, Hon. C. C. Clay was appointed Chief Justice.

A sixth circuit was created in 1821. Of this Hon. Anderson Crenshaw was elected judge. Passing in hurried review the membership of the Court from its foundation as thus indicated, the records show a large number of names familiar to the judicial history of the State, some of whom have left the impress of their thought and character upon the wider field of American law. Judge Webb dying in 1823, was succeeded by Hon. Henry Minor, who held office until the General Assem-

bly convened, when Hon. John Gayle was elected to fill the vacancy. Chief Justice Clay resigned in 1823 and was succeeded in that office by Justice Lipscomb. At the election held in 1825, by the General Assembly the first regular election under the constitution, since the creation of the Supreme Court, the following circuit judges were elected:—Hons. A. S. Lipscomb, Reuben Saffold, John Gayle, John White, John M. Taylor and Anderson Crenshaw. In 1828 a seventh circuit was established, of which Hon. Sion L. Perry was elected judge. In the same year Judge Gayle resigned and Hon. Henry W. Collier was elected to succeed him. In 1830 the court encountered an outburst of popular disapproval provoked by its strict enforcement of contracts for the payment of excessive interest, the statute against usury having been been repealed by the territorial legislature. As a consequence of this outburst the tenure of the judges was changed by constitutional amendment from one during good behavior to a term of six years. By the new amendment, the terms of the judges then sitting would end in 1833. In 1832 the Court was entirely reorganized and made a separate court, being made to consist of three judges, holding office for six years. Judges Lipscomb, Saffold and Taylor were elected, Judge Lipscomb again receiving the appointment as Chief Justice. In 1834 Judge Taylor resigned being succeeded by Hon. Harry I. Thornton. In the latter part of the same year Judge Lipscomb resigned and was succeeded by Hon. Henry Hitchcock, Judge Saffold assuming the Chief Justice's place.

In 1836 Hon. A. F. Hopkins succeeded Judge Thornton and in the same year Judge Saffold resigned being succeeded by Hon. Henry W. Collier, Judge Hitchcock taking the place of Chief Justice. In 1837 Judge Hitch-

cock resigned, and was succeeded by Hon. Henry Goldthwaite, Judge Hopkins being advanced to the Chief justiceship. In June 1837, Chief Justice Hopkins resigned, being succeeded by Hon. J. J. Ormond, Judge Collier becoming Chief Justice. In 1843, Judge Goldthwaite resigned and was succeeded by Hon. C. C. Clay. Judge Goldthwaite having been in the meantime defeated in a contest for a seat in Congress, was a candidate against Judge Clay for the place on the bench, but recently vacated and beat his apponent before the General Assembly. At his death in 1847, he was succeeded by Hon. Edward S. Dargan, and Judge Ormond declining a relection was succeeded by Hon. Wm. P. Chilton. In 1849, Judge Dargan succeeded Judge Collier as Chief Justice, Hon. Silas Parsons taking the place thus left vacant Parsons was succeeded in 1851 by Hon. Daniel Coleman, who again was succeeded by Hon. George Goldthwaite. In the same year, 1851, the number of judges was increased to five, Hons. David G. Ligon and John D. Phelan making the new quota. In 1852 Chief Justice Dargan resigned and was succeeded in that office by Judge Chilton, Hon. Lyman Gibbons being appointed associate justice. In 1853 the membership of the court was again reduced to three judges and Hon. Samuel F. Rice became the third judge. In December, 1855, Hon. A. J. Walker succeeded Chief Justice Chilton, Judge Goldthwaite became Chief Justice. Judge Goldthwaite presently resigned and Hon. George W. Stone was elected to succeed him, Judge Rice becoming Chief Justice. Judge Rice resigning in January 1859, was succeeded by Hon. R. W. Walker, Judge A. J. Walker becoming Chief Justice. In 1863 Judge R. W. Walker resigned and was succeeded by Hon. Jno. D. Phelan. The legislature that convened at the close of the war elected as members of

the Supreme Court, Hons. A. J. Walker, Wm. Byrd and Thomas J. Judge.

By the "Reconstruction" Constitution of 1868, the election of judges was committed to the people and on an election held, Hon. E. W. Peck, Thomas M. Peters and B. F. Saffold were returned as Judges of the Supreme Court. In June, 1873, Judge Peck resigned, Judge Peters became Chief Justice and Hon. R. C. Brickell was appointed to fill the vacancy. At the general election in 1874, Judge R. C. Brickell was elected Chief Justice and Hon. Thomas J. Judge and Amos R. Manning Associate Justices. In March 1876, Judge Judge died and was succeeded by Hon. Geo. W. Stone. In 1880, Judge Manning having died, was succeeded by Hon. Henderson M. Somerville. On Oct., 25th, 1884, Judge Brickell resigned and was succeeded by Hon. David Clopton, Judge Stone becoming Chief Justice. In 1889 the number of judges was increased to four and Hon. Thomas N. McClellan was appointed to the new place. In July 1890, Judge Somerville resigned and was succeeded by Hon. Thomas W. Coleman.* The bench at present consists of Chief Justice Stone and Associated Justices Clopton, McClellan, Coleman, Walker. The term of office for judges of the Supreme Court remains fixed at six years. The salary is three thousand six hundred dollars per year. Elections are still by the people and there seems no disposition to revert to the old method of election by the General Assembly.

Of the fifteen Chief Justices the Court has had since its foundation it is impossible to speak in detail in the brief space at our command. By a consensus of opinion among the bar, the history of the Court is marked by

* In February, 1891, the number of judges was increased to five, and Richard W. Walker was appointed to fill the new judgeship.

the periods when presided over respectively by Lipscomb, Saffold, Collier, Walker, Bricknell and Stone. This is not to detract from the enduring character of the work done by other Chief Justices or that done by the large number of associate justices who have adorned the Court.* Still it proved the fortune of the judges above named to especially impress themselves upon the judicature of the State both by reason of the length of their service and the conjunction of this with occasions for the exhibition of trained legal power. The present Chief Justice has been on the bench nearly twenty-five years, and has an almost if not altogether unprecedented record of nearly 2,100 decided cases.

It is of some interest to note the nativity of the Chief Justices. Clay, Hopkins, Collier and Stone were born in Virginia; Lipscomb and Rice in South Carolina; Saffold in Georgia; Hitchcock in Vermont; Dargan in North Carolina; Chilton in Kentucky, Goldthwaite in New Hampshire; Walker and Peters in Tennessee; Peck in New York and Brickell in Alabama.

It may be added that the growth of the judicial system, in so far as its course has been effected by decisions of the highest court, has shown a more or less cosmopolitan spirit. The decisions of the courts of last resort in New York and Massachusetts have been, perhaps more generally followed by the judges in Alabama than those of any other States, when it has been seen fit to rest cases upon authority of this kind. Out of this very cosmopolitanism has sprung a conservatism, a disposition to wait upon an orderly and judicious development of law rather than by hasty changes to impair the gen-

* One of these last, Associate Justice Somerville, by his opinion in Parsons vs. The State (81st Ala. 577), has done much to shake the authority of McNaghten's case, and so has laid open the way to a striking modification of the old doctrine of criminal responsibility in the Insane.

eral fabric. The Court is now marked, if by any special characteristics, by great and deserved sternness towards homicides, a fixed determination to stamp out fraud wherever discovered and by holding directors of corporations to a strict accountability at the same time that they have in no wise shared the prejudice against corporations themselves.

The Supreme Court Reports of Alabama have long enjoyed an established rank among the reports of the Union. The most competent judges give them a place among the five or six best series of reports. This rank, it may be confidently predicted, will not be lowered with time.

CHIEF JUSTICE STONE OF THE ALABAMA SUPREME COURT.

George Washington Stone, at present Chief Justice of the Supreme Court of Alabama, was born in Bedford County, Virginia, on October 24th, 1811. Opportunities for the higher education in that early period of our history were limited, and he had no collegiate course.

Studying law in the office of James Fulton, then a distinguished lawyer of Fayetteville, Tennessee, he moved to Alabama, and obtained a license to practice his profession in that State in May 1834, just within the era of what is known as the "Flush Times" of the southwest.

He was appointe Judge of the Circuit Court in August, 1843, to fill an unexpired term, and was elected to the same office in December of that year for a term of six years.

Judge Stone resigned his judicial office in January, 1849; and returned to the Bar, becoming a partner of the late Thomas J. Judge, afterwards Associate Justice of the Supreme Court of Alabama.

He was elected Associate Justice of the Alabama Supreme Court by the State Legislature, in January 1856, for a term of six years, and was re-elected by the same body in January, 1862. In 1865, he was defeated for the same office on account of political differences, and by a small majority.

He returned to the Bar of Montgomery, the State capital, which at that time contained a brilliant galaxy of able lawyers, distinguished for their industry, forensic

eloquence and legal learning. Among these great jurists were Rice, Chilton, A. J. Walker and Goldthwaite, all ex-judges of the Alabama Supreme Court; Watts, Morgan, Elmore, Bragg and others. Judge Stone was admitted to be the peer of the foremost of these.

In March, 1876, he was again appointed by Gov. Houston to fill an unexpired term on the Supreme Court Bench of four and a half years; and was elected by the people in 1880 for a full term of six years.

In 1884 he was appointed Chief Justice by Gov. O'Neal; and in 1886 was elected to the same office for a term of six years, not yet expired.

When Judge Stone's present term of office shall have expired, in 1892, he will have been a member of the Alabama judicary, with an interval of a few years only, either as a Circuit or Supreme Court Judge, for a period of nearly fifty years. During this time he has been on the Supreme Court Bench of Alabama for nearly a quarter of a century, and he has delivered over 2100 published decisions. These will be found in the 28th to the 39th, and 53d, to the 89th volumes of the Alabama State Reports, inclusive. It is believed that no other American or English judge of a court of highest resort has delivered so many opinions.

Judge Stone justly ranks among the foremost of American judges, and his decisions have gone into nearly every American text book as acknowledged authority. His mind is preeminently judicial; his style is vigorous and clear, and his legal judgment remarkably sound. His career on the Alabama Bench has imparted increased vigor to the administration of the criminal laws, and a spirit of sturdy morality to commercial jurisprudence in that State. One of his recent associates on the Bench says of him that he perfectly fulfils the qualifications of

the model judge as recited in the counsel which Jethro gave to Moses for appointing judges in that early day: "They shall be men of courage, and men of truth; fearing God and hating covetousness."

The same Associate, Judge Somerville, who was on the Alabama bench for ten years with the Chief Justice, in an address before the Alabama Bar Association, in 1888, when responding to a toast to "The Supreme Court," paid him the following tribute:

"I have read in history," he said, "that the integrity and love of virtue which characterized the ancient city Tarretum, and exalted its inhabitants above their neighbors, was attributed to the residence of Pythogras among them. In like manner I say that whatever of praise has been given the decisions of the Supreme Court of Alabama, is due to no one more than to my learned friend, the Chief Justice. No judge in any age or country, in my judgment, has done more to elevate the juris prudence of his State to a higher plane of learning, or impressed it with nobler principles of honesty, or with a sturdier morality than George W. Stone, the present Chief Justice of the Supreme Court of Alabama."

JUDGE THOMAS NICHOLAS McCLELLAN.

Associate Justice Supreme Court of Alabama, (son of Thomas Joyce and Martha F. (Beatty) McClellan, whose ancestory respectively were Scotch Irish and Irish), was born February 23d, 1853, in Limestone county, Alabama; educated at Oak Hill College and Cumberland Univerity, Tennessee; graduated from the Law Department of the latter institution with degree of Bachelor of Law, at the age of nineteen, and immediately entered upon the practice of law in co-partnership with his brother, Hon.

Robert A. McClellan, at Athens, Alabama ; was Register in Chancery from 1874 to 1878 ; member of the Alabama Senate, representing the First District, composed of the counties of Landerdale and Limestone, from 1880 to 1884 ; elected Attorney-General of Alabama as a Democrat in 1884, re-elected in 1888, and on March 6th, 1889, while filling a civil term in the office of the Attorney-General, was appointed Associate Justice of the Supreme Court, by Governor Thomas Seay, to fill a vacancy resulting from a statutory increase of the membership of the Court from three to four, the term expiring December 1st, 1892.

Judge McClellan's career as Attorney General for the State of Alabama, established his ability and soundness as a lawyer, placing him in the front ranks of the Bar. His argument before the United States Supreme Court in the case of Smith *vs.* The State of Alabama, 124 U. S. 465, involving interesting questions of Interstate Common Law, was a specimen of forensic logic and of constitutional research, which was complimented in high terms by many of the members of that tribunal.

The judicial opinions are marked by industrious investigation, strength of style, and soundness of judgment, and every year adds to his increasing reputation and renown on the Bench.

JUDGE THOMAS WILKES COLEMAN.

Judge Thomas Wilkes Coleman was born in the county of Greene, State of Alabama in the year 1834—being now in the 56th year of his age.

He was graduated at Princeton College, New Jersey, in the class of 1853—an institution which has been prolific in educating scholars, and jurists, and statesmen

throughout the land. After studying law at a bar, noted for the conspicuous learning and eloquence of its members, he was admitted to practice in the Supreme Court in 1855, when just of age.

In 1865 he was elected a member of the Constitutional Convention, which framed what was known as the "Constitution of 1865"—the only occasion on which he has ever been a candidate for office by popular election.

In the same year he was elected by the State Legislature of Alabama to the office of Circuit Solicitor; was appointed by the Governor to the same office in 1878 to fill an unexpired term, and was re-elected by the Legislature in 1880 and again in 1886.

He was appointed to the office of Chancellor of the Southern Chancery Division of Alabama during the year 1886, and resigned the Solicitorship to accept that position.

He was appointed Associate Justice of the Supreme Court of Alabama in August, 1890, after serving as Chancellor for four years, this appointment having been made by Governor Seay to fill the vacany created on the Appellate Court bench by the resignation of Judge Somerville.

For about fifteen years past he has been an Elder in the Presbyterian Church, the religious tenets of which he has constantly maintained without bigotry or ostentation.

The career of Judge Coleman has been one of continued honor and success from the day of his entrance at the bar to that of his elevation to the bench. His mind is intellectually vigorous and analytical; his convictions are strong, his love of truth dominant, and his judgment is sound. These qualities made him a successful lawyer, an earnest and fearless prosecutor as Com-

monwealth's Attorney, a Chancellor equal in ability and repute to any of his distinguished predecessors who had before him adorned the woolsack in the State's history. He gives promise of ranking among the foremost of the judges who have illustrated their learning as jurists on a Bench which stands among the foremost of the American State Courts.

Judge Coleman is at present a member of the Medico-Legal Society, and one of the Vice-Presidents for the State of Alabama.

JUDGE RICHARD WILDE WALKER.

Judge Richard Wilde Walker, now the junior member of the Alabama Supreme Court, was born in Florence, Alabama, on March 11th, 1857.

His father, Judge Richard W. Walker, whose name he bears, was a learned and distinguished judge of the same court for many years, resigning the position to accept that of Senator in the Confederate States Government in 1863.

His uncle, General Leroy Pope Walker, was a noted lawyer and a great advocate, being generally known as the first Secretary of War for the Confederate Government. Another uncle, the Hon. Percy Walker, was also a lawyer and politician of renown and prominence in Alabama.

Young Walker attended Washington and Lee College, Lexington, Virginia, one year, and afterwards went to Princeton College, New Jersey, where he achieved scholarly distinction, graduating with the class of 1877. His father and his paternal grand-father had each graduated in the same institution, way back in the past generation.

After attending the Columbia Law School in New

York City, one session, he was admitted to the Bar at Huntsville, Alabama, in the fall of 1878, which had been the chief theatre of his father's and uncle's greatest forensic triumphs.

He practiced law in St. Louis, Mo., for about one year; went to New Mexico, but remained only two or three months, and in 1881 went to New York City, where he engaged in the practice of his profession for more than two years. Mr. Walker, in these three years, was engaged in storing his mind with a wealth of knowledge. With his great industry and power of legal discrimination he laid the sure foundation of a pre-destined success. Not being impressed with a fondness for life in so large a city as New York, where his modesty of manners probably contributed to conceal his merit so as to prevent his success from keeping pace with his ambition, he left New York and returned to Huntsville, Alabama, early in 1884.

Here he devoted himself assiduously to the practice of law, each year adding to his growing reputation, until his success was so complete that he was retained as counsel on one side of nearly every important litigated case.

His arguments before the Supreme Court were models worthy of imitation. Pleasant and persuasive in address, earnest in manner, thoroughly conversant with the law and the facts of his case, and logical in his presentation of them, he always commanded the attention of the judges. They felt, when he had finished talking, that a flood of light had been turned into every dark corner of an often voluminous and uninviting record.

On February 23, 1891, he was appointed by the Governor to the office of Associate Justice of the Supreme Court of Alabama, being then not quite thirty-four years

of age. He is probably as young a judge as occupies such a position in any one of the forty-four States of the Union. The present Chief Justice of the Alabama Court, the Hon. Geo. W. Stone, was an Associate Justice of the same Court the year Judge Walker was born, and the present Supreme Court Reporter also occupied the position of reporter at the same time—in 1857. The father of Judge Walker was on the Bench at the same time with Judge Stone.

The mantle of Elijah thus gracefully falls upon the young Elisha, who bids fair to prove as mighty a prophet as his illustrious predecessor.

JUDGE HENDERSON M. SOMERVILLE.

Henderson Middleton Somerville was born in Madison County, Virginia, on March 23rd, 1837.

His father was a distinguished physician of a well-known Virginia family, of Culpeper County, and moved from that State in the fall of 1837 to Alabama, at a time when the "Star of Empire" was making its way westward, and it required between five and six weeks for the traveller, by vehicle or horseback, to make the journey. His mother, Helen Glassell Wallace, was a noted woman of her day, belonging to the well-known Glassell family of Virginia, one of whom, Joanna, went to Scotland, and married the Duke of Argyle, father to the late Duke of Argyle, and grandfather of the present Marquis of Lorne, son-in-law of Queen Victoria.

The subject of this sketch, when fifteen years of age, entered the University of Alabama, at Tuscaloosa, and was graduated in 1856 with distinction. After teaching school one year, he entered the Cumberland Law School, at Lebanon, Tennessee, where he took a diploma in 1859.

Proceeding at once to Memphis, then the growing city of the South-west, he commenced the practice of law.

In 1861 he assumed the political editorship and management of the Memphis *Appeal*, at a time when a strong and able corps of editors controlled the press of that city, among whom may be recalled ex-United States Senators Jere Clemens and Solon Borland, and the veteran, Matt. Gallaway, of the *Avalanche*. Under his editorial management the *Appeal* more than quadrupled in circulation in less than two years of time.

In 1863, after the capture of Memphis by the Federal troops, he accepted the position of associate Professor of Mathematics and Classics in the University of Alabama, which he filled until that institution was burned by the invading army of the United States in April, 1865.

He then entered the practice of law at Tuscaloosa, in partnership with ex-Judge Ormond, formerly of the Alabama Supreme Court bench, but this association terminated by the death of Judge Ormond the following year. No lawyer in Western Alabama had a larger or more lucrative practice, extending to every branch of jurisprudence, including equity, the common and criminal law. He often quoted and constantly followed the maxim of Lord Eldon, that to meet with success at the bar a lawyer must "live like a hermit, and work like a horse."

In 1873, while still deeply engrossed in the pursuit of his profession, by invitation of the University Regents he founded the Law School of the State University, which steadily flourished under his management for seventeen years.

It has been estimated that over one-fourth of the

present Bar of Alabama graduated in this school under his tuition.

One of his law-students, in 1887, as editor of the *University Daily*, thus wrote of him :

"As a teacher of law, Judge Somerville is absolutely without a superior. His knowledge of legal principles is exhaustless ; his acquaintance with the decisions and authorities is to us boundless. He is a man of profound thought, and undeviatingly exact reason. His power to impart knowledge is wonderful."

Judge Somerville was appointed to the Supreme Court Bench of Alabama, as Associate Justice, by Governor Cobb in September, 1880.

He was elected to the same office by the people, in 1886, for a term of six years.

Prior to his accession to the bench he took an active interest in politics, being for ten years a member of the Democratic State Executive Committee, upon whose shoulders largely rested the Herculean task of rescuing the State Government from the perils of Reconstruction.

In 1887, when a vacancy occurred on the United States Supreme Court Bench, occasioned by the death of Justice Woods, Judge Somerville was endorsed by the Press and Bar of Alabama for this high position with comparative unanimity over many able and older competitors from the same State. President Cleveland, however, appointed Mr. Lamar from his own cabinet to fill this place.

In July, 1890, without either seeking or desiring the position, he was appointed by President Harrison to the office of United States General Appraiser, as one of the four Democratic appointees on that Board of Customs. The position is judicial in character, and the tenure is

practically for life, with a salary of $7,000 per annum, which is but little less than that of a cabinet officer.

Upon Judge Somerville's resignation of his position on the Alabama Supreme Court, the Bar of the City of Birmingham, the largest in the State, held a public meeting and after tendering their congratulations at the high honor conferred upon him, resolved that they parted with him, as a member of the court "with sincere regret, and with a full appreciation of his great ability as a judge, and of his purity of character as a man."

The judicial opinions of Judge Somerville will be found embraced in the Alabama Reports from the 65th to the 90th volumes inclusive. They number between eleven and twelve hundred for the ten years of his judicial career, or considerably more than a hundred for each year. The average number of opinions rendered by the Judges of our American State Courts of highest resort is about 80 *per annum.*

The American *Law Review* has characterized his judicial opinions as "masterly," and the late Dr. Francis Wharton once said that they were not excelled for soundness or style by those of any other contemporary judge.

The case which has, perhaps, given him more extended reputation, both in America and Europe, than any other is that of *Parsons v. the State*, published in the 81st vol. of the Alabama Reports, in the *Medico-Legal Journal*, the Chicago *Law Journal*, and other law and medical periodicals in Canada, England and France. The opinion in this case repudiates what has long been known as "the right and wrong test" of insanity, and vigorously announces the modern doctrine that "insanity is a disease of the brain," and that one, who commits a so-called crime under the duress of its influence, cannot be held culpably liable—that the true test of criminal responsi-

bility is found, not alone in the power to distinguish right from wrong in the abstract or as applied to the particular act, but in the power to adhere to the right and to abstain from the wrong; or, in other words, in the power of self-control through the exercise of volition.

The Chicago *Law Journal*, of February, 1889, in commenting on the opinion of Judge Somerville in the *Parson's* case, said: "This opinion is justly regarded by both professions, legal and medical, as being the clearest and ablest exposition of the law upon the subject yet given, and, in fact, the only decision in which a court has demonstrated its ability or disposition to place itself in harmony with the advanced thought of to-day, upon a matter so intensely involving considerations of justice and humanity."

Dr. Buckham, the author of the treatise in "Insanity Considered in its Medico-Legal Relations," said of this opinion that it "was the most able and advanced that had ever been pronounced by any court of justice in the world."

The American *Law Review*, for May, 1889, in commending him as a suitable appointee for a vacancy in the United States Supreme Court Bench, observed as follows: "The South has some very strong judges at present in the harness. If we are entitled to judge from the quality of their judical work, we make bold to say that there is no stronger judge in the country to day than Judge Somerville, of the Supreme Court of Alabama. We appeal to his masterly opinion in confirmation of the statement."

As a Trustee of the Alabama Insane Hospital for the past fifteen years, Judge Somerville has taken great interest, not only in the practical study of insanity, but in reforming the legislation in this branch of the law. He

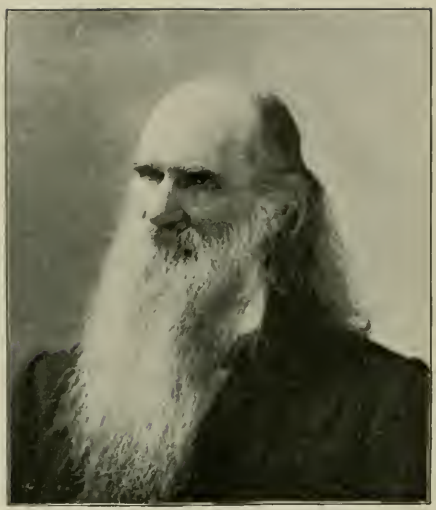
is the author of the Alabama law, enacted in 1887, creating in that State a Commission of Lunacy, and regulating the custody of the criminal insane, and the procedure for their trial.

He has for many years been actively identified with the New York Medico-Legal Society, and is now its First Vice-President.

The degree of Doctor of Laws has been conferred upon him by three separate universities in as many States.

He is a member of the Peabody Board of Trustees, who are charged with the administration of the munificent charity of the late George Peabody, contributed for the advancement of the cause of education in the South. Among the members of this distinguished body are ex-Presidents Grover Cleveland and Rutherford B. Hayes, Chief Justice Fuller, of the United States Supreme Court, Senator Wm. M. Evarts, of New York, and Robert C. Winthrop, of Massachusetts.

Since Judge Somerville's connection with the Board of Customs Appraisers in New York, where he now officially resides, he has delivered many opinions on interesting and difficult questions of Customs and Constitutional Law, which have been given general publicity throughout the Union. Among these may be mentioned the one involving the question of the constitutionality of Speaker Reed's famous rulings in the United States House of Representatives of the 51st Congress, and that of the constitutional validity of the "McKinley Tariff Law" of October, 1890. His opinion, holding the law to be constitutional, has been affirmed by three different Federal Circuit Courts, and is now pending for consideration on appeal before the United States Supreme Court. The results reached in these cases are known to be strongly opposed to his own political predilections.



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JUDGE THOMAS J. SIMMONS.

JUDGE SAMUEL LUMPKIN.

SKETCH OF THE SUPREME COURT OF GEORGIA.

By Charles Edgeworth Jones, Esq., of Augusta, Geo.

Under the State Constitution of 1798 no provision was made for the establishment of a Supreme Court in Georgia. The tribunal which bears that name was indebted for its existence to a Constitutional amendment. By the amendment of 1835 it was declared that there should be a Supreme Court in the Commonwealth for the correction of errors, which Court "shall consist of three Judges, who shall be elected by the Legislature for such term of years as shall be prescribed by law, and shall continue in office until their successors shall be elected and qualified; removable by the Governor on the address of two-thirds of both branches of the General Assembly for that purpose, or by impeachment and conviction thereon. The said Court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors in law and equity from the Superior Courts of the several Circuits; and shall sit at least once a year, at a time to be prescribed by law, in each of five Judicial Districts to be hereafter laid off and designated by the Legislature for that purpose, at the most central point in each Judicial District, or at such other point in each district as shall by the General Assembly be ordained for the trial and determination of writs of error from the several Superior Courts included in such Judicial Districts."

In pursuance of an act approved December 10th, 1845, the establishment and organization of the Supreme Court

of the State of Georgia were perfected. The following Judges were duly elected and commissioned, viz: Joseph Henry Lumpkin, Chief Justice, for a term of six years; Hiram Warner, Associate Justice, for a term of four years, and Eugenius A. Nisbet, Associate Justice, for a term of two years. By a further provision of the same statute it was enacted that all Judges who should be elected after that session of the General Assembly (except when nominated to fill vacancy) should hold office for a term of six years, and be commissioned by the Governor accordingly.*

Savannah and Hawkinsville in the First District (composed of the Eastern and Southern Judicial Circuits); Talbotton and Americus in the Second District (consisting of the Southwestern and Chattahoochee Judicial Circuits); Macon and Decatur in the Third District (comprising the Coweta and Flint Judicial Circuits); Cassville and Gainesville in the Fourth District (composed of the Western and Cherokee Judicial Circuits), and Milledgeville in the Fifth District (consisting of the Middle, Northern and Ocmulgee Judicial Circuits), were designated as the places where terms of the Court should be holden. By the Constitution of 1868 it was determined that the sessions of the Supreme Court should be held at the seat of Government; and since December of that year the Court has been permanently established at the State capital, at Atlanta, Georgia.

In compliance with the same Act a clerk of the Supreme Court was appointed, and a Reporter for that tribunal was elected by the judges, the term of office in either case being six years. Robert E Martin and James M. Kelly became the first incumbents in those positions,

*Under the Constitution of 1868 the term was enlarged to twelve years. The present Constitution (1877), however, adheres to the six year plan.

respectively. The salaries of the Justices were fixed at twenty-five hundred dollars each, while the compensation provided for the reporter was limited to one thousand dollars.

By the constitution of 1877 we are advised that the jurisdiction of the Supreme Court extends to the trial and correction of errors as well from the City as from the Superior Courts of the State. Among the City Courts may be mentioned those situated at Augusta, Savannah, Macon, Atlanta, Athens, and Columbus. Superior courts exist in each of the one hundred and thirty-seven counties of Georgia. These counties have from time to time been grouped into Judicial Circuits, of which there are at present twenty-three.

In the code of 1882 the powers of the Supreme Court of Georgia are fully and distinctly set forth. The court, we are told, has authority to exercise an appellate jurisdiction, and that only ;—to hear and determine all causes, civil and criminal, which may come before it, and to grant judgments of affirmance or reversal, or any other order, direction, or decree therein required ;—to grant writs necessary to carry out the purposes of its organization, or compel inferior tribunals to obey its mandates ; —to appoint its own officers ;—to establish, amend, and alter its own rules of practice ;—to regulate the admis sion of attorneys ;—to punish for contempt by fine and imprisonment, the former not exceeding five hundred dollars, the latter not transcending ten days ;—and to enjoy such other prerogatives, as are or may be given to it by law.

The Supreme Court holds two sessions annually. The Spring term begins *on the first Monday in March, and the Fall term on the first Monday in October. In the

*See Act of August 12, 1885.

absence of any one of the judges from providential cause, it is permissible for two of them to hold court. If the Chief Justice is unable to attend, the oldest judge in commission presides. In the event that one or more of the judges are disqualified, by interest or otherwise, from deciding any cause, it is customary for the Governor to designate some judge or judges of the Superior Courts to represent them in the adjudication of such case. The concurrence of two Supreme Court Justices is necessary to make a reversal, or to grant any order disturbing the judgment of the court below. When only two preside in a cause, and they disagree as to the reversal, or as to the granting of such order, the judgment stands affirmed.

No person is eligible for the office of Judge of the Supreme Court unless at the time of his election he has attained the age of thirty years, has been a citizen of Georgia for three years, and has practiced law for seven years. The salaries now paid to the Supreme Court Justices are five hundred dollars in excess of the sum set apart for them individually under the statute of 1845. The Reporter receives two thousand dollars as a compensation for his services. He is aided in the performance of his duties by an Assistant Reporter for whom a similar salary has been provided.*

In 1887 an effort was made to increase the number of Supreme Court Justices from three to five. A bill was introduced into and passed by the General Assembly in the Fall of that year contemplating the desired end. The proposed amendment, however, failed to obtain the sanction of the people.

The Supreme Court of Georgia is now† entering upon the forty-sixth year of its existence. Since its establish-

* See Act of December 24, 1888. † December 17, 1890.

ment in 1845, seven Chief Justices and twenty-two Associate Justices have presided over its destinies. Four Clerks and ten Reporters have successively discharged the functions of their respectiveoffices ; and eighty-four volumes of Reports represent the fruits of the accumulated labors of this important tribunal.

(I)

CHIEF JUSTICES.

1—Joseph Henry Lumpkin, 1845—1867; 2—Hiram Warner, 1867—1868; 3—Joseph E. Brown, 1868—1870; 4—O. A. Lochrane, 1871—1872; 5—Hiram Warner, 1872—1880, 6—James Jackson, 1880—1887; 7—Logan E. Bleckley, 1887———.

(II)

ASSOCIATE JUSTICES.

1—Hiram Warner, 1845—1853; 2—Eugenius A. Nisbet, 1845—1853; 3—Ebenezer Starnes, 1853—1856; 4—Henry L. Benning, 1853—1859; 5—Chas. J. McDonald, 1856—1859; 6—Linton Stephens, 1859—1860; 7—Richard F. Lyon, 1860—1866; 8—Charles J. Jenkins, 1860—1865; 9—Dawson A. Walker, 1866—1868; 10—Iverson L. Harris, 1866—1868; 11—H. K. McCay, 1868—1875; 12—Hiram Warner, 1868—1872; 13—W. W. Montgomery, 1872—1873; 14—Robert P. Trippe, 1873—1875; 15—Logan E. Bleckley, 1875—1880; 16—James Jackson, 1875—1880; 17—Martin J. Crawford, 1880—1883; 18—Willis A. Hawkins, 1880—1880; 19—Alexander M. Speer, 1880—1882; 20—Samuel Hall, 1882—1887; 21—Mark H. Blandford, 1883—1890; 22—Thomas J. Simmons, 1887———; 23—Samuel Lumpkin, 1890———.

(III)

CLERKS.

1—Robert E. Martin, 1845—1860; 2—Charles W. DuBose, 1860—1868 ; 3—B. B. DeGraffenreid, 1868—1871; 4—Z. D. Harrison, 1871———.

(IV)

REPORTERS.

1—James M. Kelly, 1845—1848; 2—Thomas R. R. Cobb, 1848—1857; 3—B. Y. Martin, 1857—1860; 4—George N. Lester, 1860—1864; 5—Logan E. Bleckley, 1864—1867; 6—N. J. Hammond, 1867—1872; 7—Henry Jackson, 1872—1882; 8—J. H. Lumpkin, 1877—1888; 9—H. C. Peeples; 1888 ——; 10—George W. Stevens, (Assistant,) 1889 ——.

(V)

Supreme Court Reports.

Kelly's—3 vols.—1—3; Kelly and Cobb's—2 vols.—3—5; Cobb's—15 vols.—6—20; Martin's—10 vols.—21—30; Lester's—4 vols.—31—33 and supplement; Bleckley's—2 vols.—34—35; Hammond's—9 vols.—36—44; Hammond and Jackson's—1 vol—45; Jackson's—13 vols.—46—58; Jackson and Lumpkin's—8 vols.—59—66; Lumpkin's—10 vols.—67—76, Lumpkin and Peeples'—1 vol.—77; Peeples'—2 vols.—78—79; Peeples and Stevens—4 vols.—80—83.

Note—Prior to the publication of these Supreme Court Reports the following Reports comprising decisions by the Judges of the Superior Courts of Georgia had been printed to wit:

1—T. U. P. Charlton's Reports—1 vol.—1824; 2—G. M. Dudley's Reports—1 vol.—1837; 3—Robert M. Charlton's Reports—1 vol.—1838 4—Georgia Decisions—Part 1—1843; Georgia Decisions—Part 2—1844.

(VI)

Digests of Georgia Reports.

1—A General Digested Index of Georgia Reports, including 1, 2, 3 Kelly, 4 to 10 Georgia Reports, T. U. P. Charlton's Reports, G. M. Dudley's Reports, R. M. Charlton's Reports, and Georgia Decisions, Parts I and II. By T. R. R. Cobb and W. W. Lumpkin, Athens, Ga.,—1852.

2—Digest of Decisions of the Supreme Court of Georgia, from Vols. 10 to 20 inclusive. By Hon. John M. Millen, Savannah, Ga., MDCCCLIX.

3—Digest of the Decisions of the Supreme Court of Georgia, from Vols. 21 to 30 inclusive. By A. O. Bacon, Macon, Ga.,—1867.

4—New Digest of the Decisions of the Supreme Court of Georgia, from Vols. 1 to 40, inclusive. In two volumes. By A. O. Bacon, Macon, Ga.—1872.

5—Analytical Index to the Decisions of the Supreme Court of Georgia, from Vol. 1 to Vol. 40 (inclusive). By Henry Jackson, Macon, Ga., 1872.

6—Digests of the Decisions of the Supreme Court of Georgia, reported in the ten volumes from 41 to 50, inclusive, and in the supplement to the Thirty-Third Georgia Reports recently published. By N. E. Harris, Macon, Ga.,—1876.

7—Analytical Index and Digest of the Supreme Court Reports of Georgia, from Vol. 41, to Vol. 61, (inclusive.) By N. E. Harris, Macon, Ga.—1882.

8—Index-Digest of Georgia Reports, Vols. 62-81 (inclusive.) By Howard VanEpps, Atlanta, Ga.,—1890.

HON. THOMAS J. SIMMONS, SUPREME COURT OF GEORGIA.

The subject of this notice was born in Crawford County, Georgia, on the 25th of June, 1837. His father, Allen G. Simmons, was the son of William Simmons, a soldier of the Revolution. His early life was spent upon a farm, and his education was largely acquired at the country schools. At the age of eighteen he repaired to the Brownwood Institute near La Grange, Georgia, where he remained in attendance for the space of a year. In 1857 he commenced the study of law at Forsyth, Georgia, under Colonel A. D. Hammond. Upon his admission to the bar in August of the same year, he located at Knoxville, the county-seat of his native county, and at once entered actively upon the practise of his profession.

The Civil War intervened; and in the Spring of 1861 Mr. Simmons joined the first company raised in Crawford County, of which he was elected First Lieutenant. This company, in association with others, composed the Sixth Georgia Regiment, of which A. H. Colquitt, now United States Senator from Georgia, was Colonel. In March of the following year the subject of the present sketch was promoted to the Lieutenant-Colonelcy of the Forty-fifth Georgia Regiment, then just organized. His regiment was ordered to Virginia, and, shortly after its arrival, it participated in the Seven Days' Battles around Richmond. At Mechanicsville he was severely wounded. In October, 1862, he was advanced to the grade of Colonel, in which capacity he served with the Forty-fifth Georgia Regiment until the close of the war. His record as a soldier and an officer was commendable, and throughout the Confederate Struggle for Independence he followed the fortunes of the Army of Northern Virginia.

Returning home in May, 1865, he resumed the practice of the law. He was chosen a delegate to the Constitutional Convention which met in Georgia that year, and about the same time was elected State Senator. He represented the Twenty-third District, then, as now, comprising the counties of Houston, Taylor and Crawford. During the session of the General Assembly in 1866, he introduced and secured the passage of what was known as the "*Evidence Act*," allowing parties to testify in their own behalf. Early in the ensuing year he was elected Solicitor-General of the Macon Circuit, which position he occupied until July, 1868, when Georgia was re-constructed, and the Governor appointed another in his stead.

In 1871 Mr. Simmons again became State Senator, representing the Twenty-second District in the Legislature during a period of six years. He was Chairman of the Finance Committee, and he reported the bill to investigate the fraudulent bonds which had been issued. The bill was passed, he was appointed Chairman of the Committee, and he submitted a report which was adopted by the General Assembly, and was made a part of the Constitution of the State. In January, 1875, he was elected President of the Georgia Senate, holding office two years. In 1877 a Constitutional Convention was called, of which he was chosen a member. By it he was appointed Chairman of the Committee on Finance, and he reported the article on Finance in the present Constitution. In the following year he became Judge of the Superior Courts of the Macon Circuit. As such he continued until 1887, when he was elected Associate Justice of the Supreme Court of Georgia, to fill the vacancy occasioned by the death of Judge Hall. In November, 1888, he was re-elected for a term of six years.

SKETCH OF HON. SAMUEL LUMPKIN, SUPREME COURT OF GEORGIA.

Son of Joseph Henry Lumpkin, Jr., a brilliant and distinguished lawyer, who died at the age of twenty-six; grandson of Samuel Lumpkin, whose name he bears; and great-nephew of Hon. Wilson Lumpkin, Governor of Georgia, and of Chief Justice Joseph Henry Lumpkin of the Supreme Court of that State;—the subject of this sketch boasts an old and honored lineage.

Samuel Lumpkin was born in Oglethorpe County, Georgia, on the 12th of December, 1848. His early studies were pursued at Meson Academy in Lexington. He subsequently attended Mercer and the State Universities, graduating with high honors from the latter nstitution in July, 1866. After the completion of his Collegiate Course, he read law, and was admitted to the bar of his native state, April 21, 1868. He commenced the practice of his profession at Elberton; afterwards removed to Americus; and finally located at Lexington, Georgia, in the Fall of 1871. He was Journalizing Clerk of the Georgia House of Representatives in 1871-2. In January, 1872, he was appointed by Governor Smith, Solicitor-General of the Northern Circuit, to fill an unexpired term. In the following year Mr. Lumpkin was re-appointed to the same position for a period of four years. Prior to his election as Superior Court Judge, his practice in the Northern Circuit was large and lucrative.

The subject of this notice represented his District in the State Senate in 1878-9. As Chairman of the Committee on Railroads he performed signal service. In this capacity he was largely instrumental in framing the act to which the Railroad Commission of Georgia owed its

origin. He was elected Judge of the Superior Courts of the Northern Circuit in November, 1884. To that position he was, without opposition, re-elected in the Fall of 1888. Since that time, and until his election as Associate Justice of the Supreme Court of Georgia in November of the past year, he has continued in the active and efficient discharge of his duties as Judge of that Circuit.

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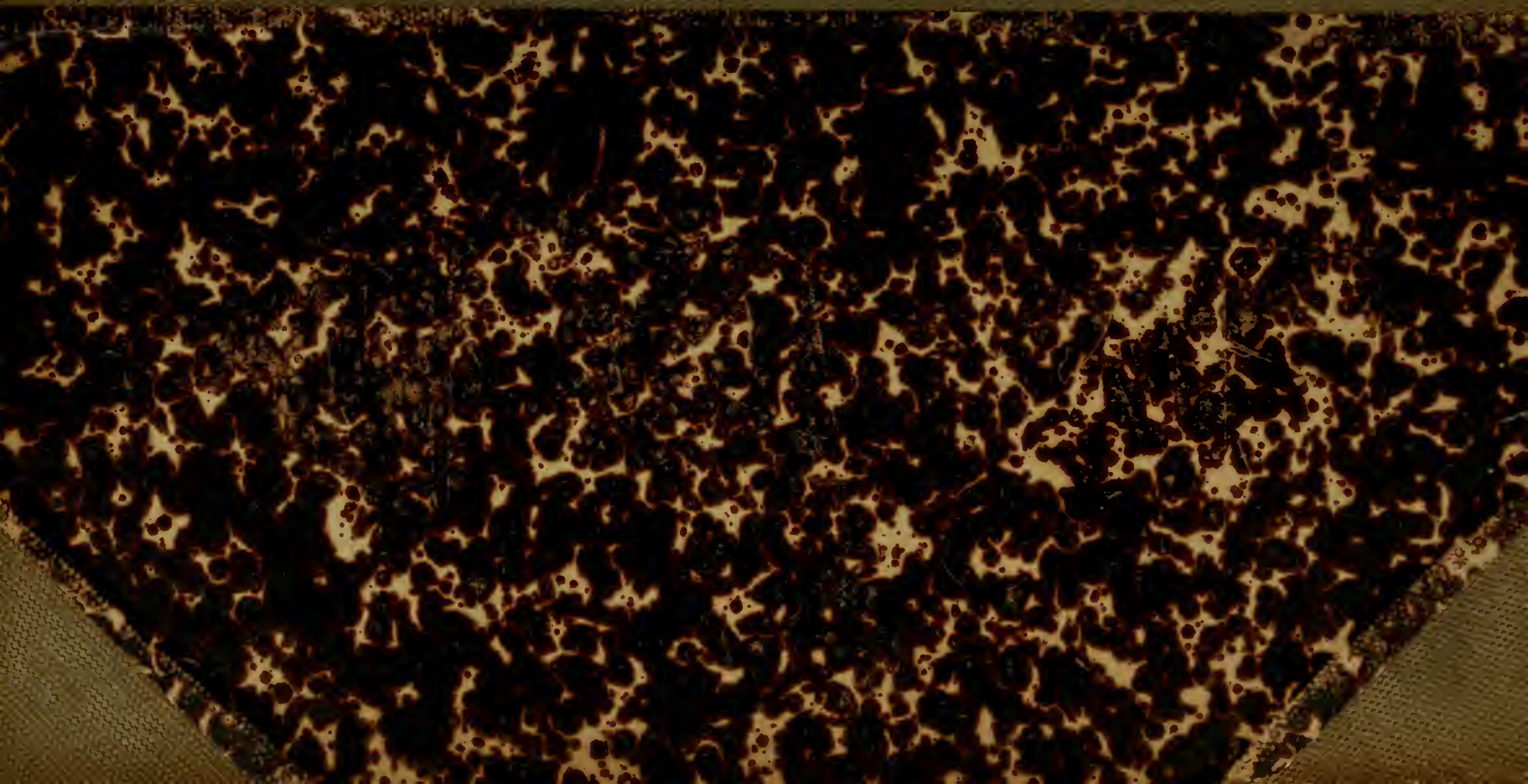
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